SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
WHEAT, SOYBEANS, AND FEED GRAINS

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2209

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SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

THURSDAY, JUNE 8, 1989

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WHEAT, SOYBEANS, AND FEED GRAINS,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1300, Longworth House Office Building, Hon. Dan Glickman (chairman of the subcommittee) presiding.

Present: Representatives Johnson, English, Volkmer, Penny, Nagle, Sarpalius, Jontz, Campbell, Dyson, Long, Roberts, Emerson, and Grandy.

Also present: Representative E (Kika) de la Garza, chairman of the committee.

Staff present: Fred J. Clark, associate counsel; John E. Hogan, minority counsel; Alice Devine, minority associate counsel; Glenda L. Temple, clerk; Greg Frazier, Anne Keys, James A. Davis, Thomas H. Lederer, and Cliff Humphrey.

OPENING STATEMENT OF HON. DAN GLICKMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. GLICKMAN. We will go ahead and begin. I apologize for the slight delay this morning, but I do not believe we will be interrupted at all by rollcall votes so we can try to finish the hearing as quickly as possible.

I want to welcome everybody to this hearing and thank everyone for their participation in this issue.

Over the past 10 years, demand for soybeans and soybean byproducts has grown at a rate of 5 percent per year. Ironically, during the same 10 years, U.S. farmers, instead of planting more soybeans to meet this demand, have planted less. Almost 20 percent less since 1979.

This significant decrease in our production has led to other countries expanding their production. South America, for example, in one way or another, has replaced every lost American soybean acre with at least one of its acres.

If trends continue at the current rate, the United States, by 1995, will be replaced by South America as the leading producer and exporter of soybeans.

To a certain degree, various farm programs have accentuated this decline in soybean production.

However, last year the subcommittee recognized a chance to turn this around by including in the 1988 Disaster Assistance Act the soybean planting provision which gave farmers an opportunity to plant a percentage of soybeans on program crop acres to help recover lost income due to the drought.

As a result, this year farmers will be planting 5 percent more soybeans than last year.

While this is not the most significant increase compared to what the United States has lost over the last 10 years, I believe that Congress and this committee are going in the right direction in farm policy to provide more flexibility to farmers who want to plant for market prices and, because of this turn around, soybean production will eventually benefit.

However, more needs to be done to create demand in order to regain our market share in soybean production and exports. Not only do Third World countries with rapidly expanding populations need to understand the benefits of the protein-enriched soybean, but Americans need to know its health benefits as well.

For these reasons, Congressman Marlenee, 27 members of the full committee, and myself, introduced the Soybean Promotion, Research, and Consumer Information Act.

This law will be an effective mechanism, not only to promote more soybean demand, but most importantly, demand for the American soybean, not the Brazilian or the Argentinean.

This legislation will establish a national research and promotion program, to fund, through producer assessments on each bushel of soybeans sold in this country, research into new varieties of soybeans, and new uses of soy products.

The program will also fund promotional efforts here in the United States and overseas to create the much needed demand for American soybeans.

Most important, the basic structure of this program maintains farmer control on the national and State level in the decisionmaking process, enabling farmers to control how their money is spent.

Increased soybean by-product research, while increasing demand, will also benefit a wide range of interest across America and the world.

For health conscious Americans, a "soymark" on food products will mean a low-cholesterol diet. For industries, soy ink, now being used by more than 1,000 newspapers, will eventually be an alternative to petroleum-based ink used on all types of paper.

For the environment, biodegradable soy oil may eventually replace petroleum or other chemically based products that are used in pesticide production.

I am encouraged by the support which this proposal has received from soybean farmers and from my colleagues. We have several different witnesses here today.

I know that there has been some concern about portions of this bill. It is my hope that we could try to, the best way possible, reach a consensus.

I believe that some of the groups have been talking to each other and some folks have also talked to us on this committee.

My hope and my belief is we will, in fact, be able to reach a consensus on a bill which very much will increase the demand, use, and desire to understand the miracle of the soybean.

[H.R. 2209, the reports from U.S. Department of Agriculture, United States Trade Representative, U.S. Department of Justice, the prepared statement of Mr. Marlenee, and the prepared statement of Mr. Emerson follow; the hearing continues on page 52.]

I

101ST CONGRESS
1ST SESSION

H. R. 2209

To enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1989

Mr. GLICKMAN (for himself, Mr. MARLENEE, Mr. CAMPBELL of Colorado, Mr. DYSON, Mr. EMERSON, Mr. GRANDY, Mr. HUCKABY, Mr. JOHNSON of South Dakota, Mr. NAGLE, Mr. PENNY, Mr. ROBERTS, Mr. SCHUETTE, Mr. ROBERT F. (BOB) SMITH, Mr. STANGELAND, Mr. VOLKMER, Mr. BROWN of California, Mr. COLEMAN of Missouri, Mr. ESPY, Mr. GUNDERSON, Mr. HARRIS, Mr. HATCHER, Mr. HERGER, Mr. HOPKINS, Mr. LEWIS of Florida, Mr. OLIN, Mr. STENHOLM, Mr. TALLON, Mr. ALEXANDER, Mr. ANTHONY, Mr. BATEMAN, Mr. BRUCE, Mr. BUNNING, Mr. DARDEN, Mr. DERRICK, Mr. DORGAN of North Dakota, Mr. FLIPPO, Mr. GILLMOR, Mr. GRANT, Mr. HANCOCK, Mr. HOAGLAND, Mr. HUTTO, Mr. IRELAND, Mr. JENKINS, Mr. KASTENMEIER, Mr. LEACH of Iowa, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. MONTGOMERY, Mr. MYERS of Indiana, Mr. OBERSTAR, Mrs. PATTERSON, Mr. PAYNE of Virginia, Mr. RAY, Mr. ROWLAND of Georgia, Mr. SKEEN, Mr. SKELTON, Mr. SLATTERY, Mrs. SMITH of Nebraska, Mr. SPENCE, Mr. SPRATT, Mr. TAUKE, Mr. THOMAS of Georgia, Mr. TRAXLER, Mr. WATKINS, and Mr. WEBER) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and those concerned with marketing,

using, and producing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing

(through adequate assessments on all soybeans produced domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the soybean industry's position in the marketplace and to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products and develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Board" means the United Soybean Board established under section 5(a) of this Act.

(2) The term "commerce" means interstate, foreign, or intrastate commerce.

(3) The term "Committee" means the Soybean Program Coordinating Committee established under section 5(d) of this Act.

(4) The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products.

(5) The term "Department" means the Department of Agriculture.

(6) The term "first purchaser" means (A) any person buying or otherwise acquiring after harvest soybeans from a producer, including any mortgagee, pledgee, lienor, or other person having a lien against the producer under a nonrecourse loan made after harvest against soybeans produced by the producer, and (B) in any case in which soybeans are pledged or encumbered under any Federal price support loan program, the Commodity Credit Corporation.

(7) The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry.

(8) The term "market access activities" means activities designed to identify and eliminate barriers to trade or market access restrictions with regard to soybeans or soybean products. Such term shall not include actions designed to influence legislation in the United States.

(9) The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(10) The term "net market price" means the price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors.

(11) The term "order" means an order issued under section 4.

(12) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(13) The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(14) The term "promotion" means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets.

(15) The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law or, if no such entity exists in a State, a soybean grower-governed entity that is organized and operating within a State, that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information

programs, and that is recognized by the Board as the soybean promotion entity within the State.

(16) The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products.

(17) The term "Secretary" means the Secretary of Agriculture.

(18) The term "soybean products" means products produced in whole or in part from soybeans or soybean by-products.

(19) The term "soybeans" means all varieties of Glycine max or Glycine soya.

(20) The terms "State" and "United States" include the fifty States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2(b) of this Act, the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this Act at any one time.

(b) PROCEDURE.—(1) The Secretary may propose the issuance of an order under this Act, or an association of soybean producers or any other person that will be affected by this Act may request the issuance of, and submit a proposal for, such an order.

(2) Not later than thirty days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this Act. Such order shall be issued and become effective not later than one hundred and twenty days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section.

SEC. 5. REQUIRED TERMS IN ORDERS.

Any order issued under this Act shall contain the following terms and conditions:

(a) ESTABLISHMENT AND MEMBERSHIP OF THE UNITED SOYBEAN BOARD.—(1) The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total of seats to which all the units are entitled.

(2) The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) A State in which average annual soybean production is less than three million bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than three million bushels shall be grouped with other States with average annual soybean production of less than three million bushels into a combined unit, in a manner prescribed in the order. To the extent practicable, each combined unit shall group geographically contiguous States together.

Each combined unit shall have an average annual production of soybeans of at least three million bushels.

(C) Subject to subparagraph (E), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than fifteen million bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is fifteen million bushels or more but less than seventy million bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is seventy million bushels or more but less than two hundred million bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is two hundred million bushels or more, shall be entitled to four seats on the Board.

(D) For purposes of subparagraphs (B) and (C), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the five previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) At the end of each three-year period beginning with the three-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (B) and (C) to determine per-unit representation on the Board: *Provided,* That a unit shall not lose, under this subparagraph, Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specific in subparagraph (B) or (C).

(3)(A) For each unit established under paragraph (2), nominations of persons to serve as members of the Board shall be submitted to the Secretary. At least one and five-tenths nominations shall be submitted for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B)(i)(I) The Secretary shall solicit nominations for each appointment to the initially established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(15) of this Act. If no such organization exists in the unit, the Secretary shall

solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) The Secretary shall solicit nominations for each appointment to the initially established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria of section 3(15) of this Act.

(ii)(I) Nominations for each subsequent appointment to the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(4) Each appointment to the Board shall be for a term of three years, except that appointments to the initially established Board shall be proportionately for one-year, two-year, and three-year terms. No person may serve more than three three-year terms. Board members shall serve without com-

pensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(5) The order shall provide for at least one meeting of the Board annually and specify the circumstances in which additional special meetings of the Board may be held.

(b) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the following powers and duties (1) to administer the order in accordance with its terms and provisions; (2) to make regulations to effectuate the terms and provisions of the order; (3) to elect members of the Board to serve on the Committee; (4) to approve or disapprove budgets submitted by the Committee; (5) to contract with appropriate persons to implement plans or projects; (6) to receive, investigate, and report to the Secretary complaints of violations of the order; (7) to recommend to the Secretary amendments to the order; and (8) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(c) BOARD VOTING PROCEDURES.—(1) The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection.

(2) Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a request for a rollcall vote or on a rollcall vote required under paragraph (3)(C), each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit, on the average, during each of the three previous fiscal years of the Board.

(ii)(I) During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the three immediately preceding crop years.

(II) The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of

votes during the second and third fiscal years of the Board.

(iii) A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3)(A) Except as provided in subparagraphs (B) and (C), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in subparagraph (C) or in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(C) A motion by a Board member to authorize any disbursement of funds that would cause outlays under any approved budget to be exceeded shall be subject to a rollcall vote and shall carry only if approved by two-thirds of all eligible votes on the Board and by a simple majority of all

units on the Board (with the vote of each unit determined by a simple majority of all eligible votes assigned to that unit).

(4) In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) A member may not cast votes by proxy.

(d) ESTABLISHMENT OF A SOYBEAN PROGRAM COORDINATING COMMITTEE AND MEMBERSHIP.—(1) The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) The Committee shall be composed of the Chairman of the Board, nine additional members of the Board elected by the Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department. To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) Terms of appointment of the Committee shall be for one year. No person may serve on the Committee for more than six consecutive terms. Committee members shall serve

without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(4) The Chairman of the Board shall serve as Chairman of the Committee.

(e) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties of the Committee, which shall include the following:

(1) The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, industry information, and market access projects. The Board shall approve or disapprove each such budget and, if approved, shall submit such budget to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within thirty days after the Secretary receives the budget.

(2) The Committee shall review or, on its own initiative, develop plans or projects of advertising and promotion, research, consumer information, industry information, and market access activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval.

(f) ADMINISTRATION.—(1) The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and that the Board and Committee shall use staff and facilities of established national, nonprofit soybean producer-governed organizations to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 per centum of the projected level of revenues to the Board for that fiscal year.

(g) CONTRACTS AND AGREEMENTS.—To ensure coordination and efficient use of funds, the order shall provide that the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this Act with established national, nonprofit soybean producer-governed organizations (including the organization electing representatives to the Committee under subsection (d)(2)), and for the payment thereof with funds received by the Board under the order. Any such contract or agreement shall provide that (1) the contracting party shall develop and

submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project; (2) the plan or project shall become effective upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(h) BOOKS AND RECORDS.—The order shall require the Board to (1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe, (2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) ASSESSMENTS.—(1)(A)(i) The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser. The net market price of soybeans pledged or encumbered as security for a

loan extended under any Federal Price-Support Loan Program shall be the principal amount of the loan extended.

(B) The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) The assessments shall be used for payment of the expenses incurred in implementation and administration of the order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after an order has been issued.

(3) A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. There shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced: *Provided*, That the Board, with the approval of the Secretary, may authorize

exceptions to such State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

(j) LOAN COLLATERAL.—The order shall establish a procedure that authorizes the reimbursement of assessments paid by producers when soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. The first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting them in the manner prescribed in the order.

(k) CERTAIN FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State statute enacted prior to March 3, 1989: *Provided,* That the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 per centum of the amount of assessments collected and remitted to the Board under subsection (i).

(l) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—(1) The order shall contain provisions to ensure that, during the period prior to conduct of the referendum provided for in section 6(a), each qualified State soybean board receives an-

nually an amount of money equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) The order shall provide, effective after the conduct of the referendum provided for in section 6(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which (A) the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the preceding five years (excluding the year in which the production is the highest and the year in which the production is the lowest) exceeds (B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (i).

(3) The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (i) in that year.

(m) INVESTMENT OF FUNDS.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the

order, pending their disbursement, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used for any purpose for which the invested funds may be used.

(n) PROHIBITION.—The order shall prohibit any funds received by the Board under the order from being used in any manner for the purpose of influencing legislation in the United States.

(o) BOOKS AND RECORDS.—(1)(A) The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order: *Provided,* That the order shall exempt small farmers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) The Board shall define the term "small farmer", as that term is used in subparagraph (A).

(2)(A) Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate to the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) In addition, the Secretary shall authorize the use under this Act of information regarding first purchasers that is accumulated under a law or regulation other than this Act or regulations under this Act.

(3)(A) All information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and agents of the Board, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order under which the information to be disclosed was obtained.

(B) Nothing in subparagraph (A) may be deemed to prohibit (i) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) No information obtained under the authority of this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act and any investigatory or enforcement action necessary for the implementation of this Act.

(5) Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(p) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide terms and conditions, not inconsistent with the provisions of this Act, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (i).

SEC. 6. REFERENDA.

(a) INITIAL REFERENDUM.—Not earlier than eighteen months or later than thirty-six months following issuance of an order under section 4 of this Act, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued. Such order shall be continued only if the Secretary deter-

mines that the order has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—After the initial referendum, the Secretary, on request of a representative group comprising 30 per centum or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans, may conduct a referendum of all such producers to determine whether such producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum and shall suspend or terminate the order in an orderly manner as soon as practicable after such determination.

(c) PROCEDURES.—(1) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the con-

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duct of any referendum under this section, except for the salaries of Government employees.

(2) Each referendum shall be conducted on a date established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided upon request.

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—Any person subject to any order issued under this Act may file with the Secretary a petition stating that such order, any provision of such order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are hereby vested with jurisdiction to review such

ruling, if a complaint for that purpose is filed within twenty days after the date of the entry of such ruling. Service of process in such proceedings may be conducted on the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in the opinion of the court, the law requires.

SEC. 8. ENFORCEMENT.

(a)(1) Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this Act.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to a person who committed such violation or by administrative action under subsection (b).

(b)(1)(A) A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary—

(i) a civil penalty of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offense.

(C) In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order or regulation.

(D) No order assessing a penalty or cease and desist order may be issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

(E) An order issued under this paragraph by the Secretary shall be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than thirty days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the court of appeals of the United States for the circuit in which such

person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by—

(i) filing a notice of appeal in such court not later than thirty days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which such violation was found.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease and desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(C) The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 9. INVESTIGATIONS: POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this Act or to determine whether any person subject to the provisions of this Act has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this Act, or of any order or regulation issued under this Act.

(b) POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may

invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) CONSTRUCTION.—Except as provided in paragraph (2), nothing in this Act may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) In order to ensure the proper administration of this Act, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 4 and ending eighteen months after the referendum on such order is conducted under section 6(a): *Provided,* That such prohibition shall not be construed to apply to a

State referendum on approval of modifications to a State soybean promotion program that do not involve termination of the qualified State soybean board.

(b) AMENDMENTS TO ORDERS.—The provisions of this Act applicable to orders shall be applicable to amendments to orders.

SEC. 11. AUTHORIZATION.

There are hereby authorized to be appropriated annually such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this Act.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

JUN 08 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We appreciate the opportunity to comment on H.R. 2209, the proposed "Soybean Promotion, Research, and Consumer Information Act of 1989."

The Department has no objection to the enactment of H.R. 2209 if amended to address the technical and policy concerns outlined in the enclosed statement. The changes recommended for consideration are designed to facilitate the administration and enforcement of H.R. 2209. We will be glad to work with the Committee staff to draft appropriate bill and report language to address such concerns.

H.R. 2209, if enacted, would enable producers of soybeans to develop, finance, and carry out a nationally coordinated program of promotion, research, and consumer information for soybeans and soybean products. The program, which would be run by a United Soybean Board composed of producers, is expected to generate $60 million a year based on an assessment rate of one-half of 1 percent of the net market value of soybeans sold. A portion of such funds would be credited back to qualified State soybean boards, and a portion would be used for domestic and export promotion of soybean products, including market access activities and production research. The bill contains a provision for a delayed referendum, with such referendum to be conducted not earlier than 18 months nor later than 36 months after issuance of the order. Approval of the order in the referendum would require a simple majority of those voting.

The Secretary would be required to conduct a suspension or termination referendum on request of 30 percent of eligible producers, with approval required by a majority of producers voting in the referendum. No provision is included for refunds under H.R. 2209. The bill also authorizes the Secretary to deal directly with violators of the Act by assessing civil penalties of not more than $1,000 per violation and issuing cease and desist orders for violations of any order or regulation.

The Department currently oversees national commodity promotion and research programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and wool, lamb, and mohair. Authority exists for the floral and wheat industries as well, but programs are not currently in effect for those commodities. These national promotion programs, which focus on generic promotion and market development for their commodities, devote in excess of $300 million a year to increase public and commercial awareness of their products. The Department has traditionally taken the position that we have no objection to industry self-help initiatives which are designed to help them improve their position in the marketplace.

The Department strongly urges the Committee to closely examine and adopt our recommendations relative to (1) providing refunds prior to the conduct of the referendum, including opportunity for periodic reaffirmation of the program; (2) reimbursement for all startup costs, including salary costs, prior to issuance of the order; (3) increasing the time for issuance of the order to 180 days; (4) expanding the prohibition on the use of producer assessment funds to influence governmental action or policy; (5) use by the United Soybean Board and the Soybean Program Coordinating Committee of the staff and facilities of established national, nonprofit, soybean producer-governed organizations; (6) elimination of market access activities, and (7) prohibition on States from conducting a referendum beginning on the date of issuance of the order and ending 18 months after conduct of the referendum.

Estimated startup costs to be reimbursed to the Department for promulgation of the Order are $150,000. Annual costs thereafter for administration and oversight activities approximate $200,000. Costs for conduct of the referendum are estimated to be $190,000, excluding Government salaries.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter
Secretary

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE

COMMENTS ON H.R. 2209
SOYBEAN PROMOTION, RESEARCH,
AND CONSUMER INFORMATION ACT

Section 3(6), page 5, lines 7, 9, 10 and 11 — On line 7, delete "producer under" and insert "soybeans pledged as collateral for". On line 9, insert after "(B)" the words "the Commodity Credit Corporation,". On lines 9 and 10, delete "or encumbered" and insert "as collateral." On line 11, delete "," and insert "to".

Section 3(8), page 5, lines 17-22 — Delete the definition of "market access activities" since reference to such activities in section 5(e)(2) should be deleted.

Section 4(b)(3), page 8, line 17-19 — The 120-day timeframe presents severe time constraints for the Department. The Department is amenable, however, to a 180-day requirement.

Section 5(a)(3)(A), page 11, lines 15-18 — Delete the last sentence in this section; it is not necessary in the law. Departmental policy currently requires that two names be submitted for each appointment to Boards of this type.

Section 5(c), pages 13-16, line 20 on page 13 through line 5 on page 16 — The section on Board Voting Procedures could be deleted. Operating procedures of the Board are more appropriately handled in the bylaws of the Board.

Section 5(d)(2), page 16, lines 15-18 — Place a period (.) after the word "boards" on line 15 and delete the remainder of the sentence. Reference to cooperator status with the Foreign Agricultural Service does not appear to be necessary to identify the organization from which nine producers are to be elected to serve on the soybean program coordinating committee.

Section 5(e)(1), page 17, line 17-19 — Delete the 30-day requirement for approval by the Secretary of the budget that is submitted by the Board. The 30-day timeframe is too restrictive and could result in disapproval of the budget by the Secretary if the Department was unable to complete its assessment and evaluation in that period of time. Additionally, it could preclude partial or conditional budget approval.

Section 5(e)(2), page 17, line 23 — Delete the words "and market access activities." The bill defines "market access activities" as activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States." This definition does not preclude a wide range of actions designed to directly influence foreign government policies. Nor does it preclude efforts to influence the Administration (USTR, USDA, State and Commerce, . . .) to pursue particular Government actions.

We do not believe that research and promotion boards, established by Federal statute and administered by the Secretary of Agriculture, should be involved in

the type of activities contemplated by this section. The activities authorized by this provision could substantially conflict with the United States Government's policies and actions from both a domestic and foreign policy standpoint. It would also establish an extremely undesirable precedent with respect to the other research and promotion boards administered by the Secretary.

Section 5(f)(1), page 18, lines 4-6 -- The Department is opposed to use by the Board of an established national organization's staff and facilities for purposes of carrying out its activities unless strict safeguards are established to provide for an "arms-length" relationship between the Board and such an organization. Failure to do so could result in a substantial conflict of interest as the Board is prohibited from engaging in activities to influence legislation which is one of the primary functions of such a national organization.

Section 5(h)(3), page 19, line 15 -- Delete the period (.) and add ". . . and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year."

Section 5(i)(2), page 20, lines 12-14 -- Revise the last phrase to read as follows: ". . . and reimbursement to the Secretary for costs incurred by the Secretary to implement and administer the Order." This language is needed to ensure full reimbursement to the Department for the expenses it incurs, including startup costs and all costs associated with administering the program. These costs can be significant in a program of this scope. The Department can no longer absorb these costs. Startup costs for this program are estimated to be $150,000; annual administrative costs are $200,000.

Section 5(j), page 21, lines 4-10 -- Traditionally, assessments are collected and paid by the Commodity Credit Corporation (CCC) to the applicable entity at the time that price support loans are disbursed to producers. Purchasers of commodities previously pledged as collateral for price support loans do not make additional collections when presented with a copy of the producer's note and security agreement evidencing CCC's collection. This method provides for the payment of funds to the applicable entity as they are collected, eliminates the need for CCC to maintain records on the collection for potential payment in the event of loan forfeiture, and eliminates the need for CCC to make refunds if the loans are repaid.

This method is used in each of the 61 agreements under which CCC is collecting assessments on commodities pledged as collateral for price support loans. Of the 61 agreements, two are national assessments for the Honey Board and Cotton Board and 16 are with individual States for the collection of an assessment on soybeans. An aberration from this procedure in the States where CCC is already collecting soybean assessments may cause mass confusion in the marketplace.

Section 5(k), page 21, line 11 -- Change first word from "Certain" to "Credit."

Section 5(l)(1), page 22, line 6 -- Change the word "Secretary" to "Board." Determining the amount of assessments each qualified State soybean board will receive annually seems to be a mathematical function based on data available in each State. It does not involve any official data of the Department. It does not appear necessary for the Secretary to make such a determination. The Board could perform that function with the same result.

Section 5(n), page 23, lines 9-12 -- Replace that section with the following: "The Order shall prohibit any funds collected by the Board under the Order from being used in any manner for the purpose of influencing legislation or governmental action or policy, with the exception of recommending amendments to the Order." The Department feels strongly that the prohibition contained in this section should be conformed to the Department's prescribed language and should be applicable to State soybean boards as well. The absence of such provision could result in potential abuse of producer funds.

Section 6(b), page 26, line 10 -- The 30-percent requirement of producers needed for the conduct of additional referenda is too high, making it virtually impossible for producers to meet the requirements for a termination referendum. The Department feels strongly this requirement should be changed to 10 percent; and, that a provision should be included confirming the Secretary's discretionary authority to provide the opportunity for producers to reaffirm their support in some manner for these programs.

Section 6(c)(3), page 27, line 11 -- Add language following this section to provide for refunds of assessments incurred on sales prior to the referendum. Either direct refunds on a monthly basis (as provided for in most programs of this type) or a provision for escrowing funds to make a one-time refund could be employed. If the escrowing alternative is utilized, the Department believes that a minimum of 10 percent of total assessments collected during the period prior to the conduct of the referendum is a reasonable level for escrowing.

Section 10(a)(2), page 32, lines 19-24 -- We question the prohibition that no State may conduct a referendum . . . during the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted. This could be viewed as a serious intrusion into the authority of the States. We encourage the Committee to closely examine this provision.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

July 26 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to comment further on sections 3(8) and 5(e)(2) of H.R. 2209, the proposed "Soybean Promotion, Research, and Consumer Information Act", as it was amended, approved and ordered reported to the full Committee on June 13, 1989.

The Department of Agriculture continues to maintain strong objections to the scope of activities authorized pursuant to those sections, and urges the full Committee in its consideration of the measure to delete or substantially modify those provisions.

Section 5(e)(2) of H.R. 2209, as amended, authorizes the United Soybean Board to engage in market development activities which are defined in section 3(8) as activities "designed to identify and analyze barriers to export sales of soybeans or soybean products and activities designed to communicate to foreign consumers, importers, wholesalers, retailers, or government officials, information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products ..." (Underlining supplied.)

The Department fully supports legitimate efforts to promote markets abroad for the use of soybeans and soybean products. The Department has worked with the American Soybean Association (a private nonprofit producer-governed voluntary trade association) under the Foreign Agricultural Service's Cooperator Program to develop foreign markets for soybeans and soybean products. The Department will continue to work with representatives of the soybean industry in this and other areas in the future. However, the United Soybean Board, which would be established by H.R. 2209, would be an instrumentality of the Federal Government authorized to use producer checkoff funds to engage in identifying and analyzing barriers to export sales and to communicate directly with foreign governments. Such international trade activities are, and should continue to be, confined to those Executive branch agencies responsible for formulating and conducting the trade policy and foreign affairs of the United States.

In addition, departmental policy with respect to the research and promotion programs operating under our supervision requires that producer checkoff funds not be used for purposes of influencing legislation or any governmental action, except in recommending order amendments to the Secretary. This prohibition is applicable to both domestic and foreign governments. The Department believes that any departure from this position could result in the misuse of producer funds.

Moreover, the authorization of such activities by the United Soybean Board would establish an undesirable precedent further threatening the President's ability under the Constitution to determine the form and manner in which the United States will conduct its international trade policy.

It is important to note that the revision in H.R. 2209 that the Department is seeking would still allow any existing national soybean trade association to conduct its traditional activities, provided that the funds received through the proposed promotion program are not used to fund prohibited or unauthorized plans or projects.

The Department recognizes that the report language adopted during subcommittee markup to preclude the United Soybean Board from negotiating foreign trade policy either directly or indirectly is a positive step in recognizing the potential sensitivity of this issue. The Department continues to believe, however, that the best solution would be to delete the pertinent provisions from the bill. In the alternative, the Department recommends, in addition to specific report language, that the substance of the report language be included in the bill as well. We also recommend that any activities to identify and analyze export barriers and any communication with foreign government officials shall be done only under the leadership and direction of the U.S. Government, with the United Soybean Board serving in an advisory capacity only.

We urge the Committee to give favorable consideration to these comments, and look forward to working with you in reaching a resolution of this matter.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter
Secretary

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20508

JUN 28 1989

The Honorable E. Kika De la Garza
Chairman
House Committee on Agriculture
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to meet with you and your Committee recently to discuss matters related to sugar and other pending agricultural trade issues. It was a useful session for me. I hope you and your members also found it worthwhile.

I'm writing today to express concern about a provision in Section 3 (8) of H.R. 2209, the proposed "Soybean Promotion, Research, and Consumer Information Act", as it was approved by the Subcommittee on Wheat, Soybeans, and Feed Grains and ordered reported to the full Committee on June 13.

The focus of concern is language in Section 3 (8) which would authorize the United Soybean Board "to engage in market development activities designed to identify and analyze barriers to export sales of soybeans or soybean products and activities which are designed to communicate to foreign consumers, importers, wholesalers, retailers, and/or government officials, information relating to the positive attributes of soybeans and soybean products and the benefits of importation, utilization, and/or distribution of soybeans and soybean products."

We believe that some of these activities would be inappropriate and duplicative of Executive Branch functions already carried out by USDA and USTR. Accordingly, I join with Secretary Yeutter in urging the full Committee to delete or modify those provisions which could impair or duplicate the U.S. Government's existing trade policy process.

Since the Office of the U.S. Trade Representative is charged with coordinating U.S. Government trade policy and conducting trade negotiations with foreign governments, I am particularly concerned about language which would authorize the United Soybean Board to identify and analyze barriers to export sales and to "communicate" with foreign governments, presumably about such barriers as well as other matters. The bill effectively creates a quasi-governmental agency--which would not be subject to normal interagency trade policy review constraints--and authorizes it to engage in trade policy discussions with foreign governments. This establishes a very dangerous precedent which could seriously impair the ability of the U.S. Government to achieve its trade

JUN 29 1989

policy objectives. We have also been advised by the Department of Justice that it raises Constitutional questions.

Furthermore, the identification and analysis of barriers to export sales would be duplicative of legislatively-mandated functions carried out by both USTR and USDA.

Section 1132 of the Food Security Act of 1985 requires that the Department of Agriculture publish annually a report which documents the nature and extent of the policies of other governments to assist their agricultural exports and to impede imports of agricultural products from the United States. The third annual report, revised and expanded as required by Section 4307 of the Omnibus Trade and Competitiveness Act of 1988, was issued by the Department on February 24, 1989.

The Office of the U.S. Trade Representative, with the assistance of the Departments of Agriculture and Commerce, is required by Section 303 of the Trade and Tariff Act of 1984 to submit to the Senate Finance Committee and House Ways and Means Committee annual reports on significant foreign barriers to and distortions of trade. The main purpose of this report is to identify and analyze the most important barriers of major U.S. trading partners, thus facilitating negotiations to reduce or eliminate such barriers. In compiling these reports, my staff and their USDA colleagues work closely with private sector groups, including the American Soybean Association and National Soybean Processors Association, to insure that foreign government practices of concern to these groups are identified and included.

In summary, we have no objection to the basic thrust of H.S. 2209, but we are very concerned about language in Section 3 (8) which authorizes the Board to engage in activities which could either duplicate or interfere with the Executive responsibility for trade policy and negotiations.

We urge the Committee to modify or delete that language.

Sincerely,

Carla A. Hills

CAH:mlh

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 1, 1989

Honorable E de la Garza, Chairman
Committee on Agriculture
U S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to request your consideration of the views of the Department of Justice on H.R. 2209, the "Soybean Promotion, Research, and Consumer Information Act." The Department defers to other agencies more directly affected as to whether additional such programs should be enacted. However, we believe that certain provisions of the bill raise substantial constitutional concerns and another raises federalism policy concerns. We also believe the entire enforcement provision of H.R. 2209 needs to be reconsidered. Because of the significance of these concerns, the Department is opposed to enactment of this bill in its current form.

1. Section 5(a) would generally provide for the establishment and appointment of members to a United Soybean Board. In particular, subsection 5(a)(3)(B) would provide that the Secretary shall make appointments to the Board from a list of candidates nominated by various State soybean boards. At the same time, the bill confers on the Board the duty to issue "regulations to effectuate the terms and provisions of the order" issued by the Secretary, the duty to approve budgets submitted by the Soybean Program Coordinating Committee, to contract with appropriate persons to implement plans or projects, and the duty to receive, investigate, and report to the Secretary complaints of violations of the order. In light of the significant governmental authority that the Board would thus exercise, we believe that the prescribed manner of appointment to the Board raises a significant constitutional problem.

The Appointments Clause of the Constitution (art. II, sec. 2, cl. 2) requires that "officers of the United States," i.e., those persons who exercise "significant authority pursuant to the laws of the United States," Buckley v. Valeo, 424 U.S. 1, 126 (1976), be appointed by one of two methods. An officer of the United States may be appointed by the President subject to the advice and consent of the Senate, or the appointment of "inferior" officers in the executive branch may be vested by

Congress in the President alone or the heads of the executive branch departments. While the Appointments Clause thus permits Congress to vest the appointment of such "inferior officers" in the Secretary alone, we do not believe that it sanctions limiting the Secretary's power of appointment by reference to a list of nominees, because such a requirement permits the creator of the list to share in the appointment power. Indeed, such a requirement itself appears to give significant authority under the laws of the United States to the creators of the nomination list, institutions whose members are not appointed according to the Appointments Clause. We recommend, therefore, that the bill be amended to require the Secretary only to "consider" those names nominated when making his appointments.

2. Section 5(d) would provide for the establishment of a Soybean Program Coordinating Committee. The Committee is to be composed of the Chairman of the Board, nine additional members of the Board elected by the Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards. The Committee would be assigned the responsibility of developing and submitting to the Board, for approval, annual budgets. The Committee also would be responsible for reviewing and developing plans or projects involving "market access activities." These "market access activities" would appear to authorize the Committee to negotiate with foreign governments.[1] Though these plans and projects must be presented to the Board for approval,

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[1] "Market access activities" are defined in section 5(e)(2) of the bill as "activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States." We share the concern of the Department of Agriculture that this provision could be construed to establish a dangerous precedent insofar as it would authorize the Committee to negotiate with foreign governments to ease trade barriers. The President has the responsibility under the Constitution to determine the form and manner in which the United States will maintain relations with foreign nations. E.g., U.S. Const., art. II, secs. 1, 2, and 3; Haig v. Agee, 453 U.S. 280, 291-92 (1981). It has long been recognized that the President, both personally and through his subordinates in the executive branch, articulates the Nation's foreign policy. See statement of John Marshall, 10 Annals of Cong. 613 (1800); United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319-20 (1936). Accordingly, we do not believe that the Soybean Program Coordinating Committee could constitutionally be authorized to negotiate with foreign governments unless its members are both properly appointed under the Appointments Clause and subject to the President's supervision.

the Committee will be exercising significant authority when it develops the annual budget and negotiates with foreign governments. Because the Committee will be exercising significant authority under the laws of the United States, its members must be appointed in conformity with the Appointments Clause. Accordingly, the bill must be amended to vest authority in the Secretary for appointing members to the Committee. Alternatively, the bill could be amended to limit the Committee to performing advisory duties.

3. Section 10(a) would prohibit the States from conducting a referendum relating to the continuation or termination of their own qualified state soybean boards during the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted under section 6(a). We believe this provision represents a serious infringement on the authority of the states to run their own qualified boards as they see fit. In light of the Supreme Court's ruling in Garcia v. San Antonio Metropolitan Transit Authority, 105 S.Ct. 1005 (1985), the task of safeguarding the sovereignty of the states has fallen to the political branches of the national government. Congress would not be faithful to this task, should it enact this provision. This infringement of state sovereignty is particularly troublesome as it does not appear to be essential to the overall success of the federal program. The Department recommends, therefore, that section 10(a) be deleted.

4. Section 8 would create a right of direct review in the courts of appeals of civil penalties assessed by the Secretary of Agriculture for willfully violating an order or regulation under the Act or for willfully failing to pay an assessment under the Act. In our view, initial jurisdiction over these actions should be given to the district courts, not the courts of appeals. Moreover, section 8, as currently drafted, permits three different actions in two different courts involving the same parties and the same conduct.

In addition, we believe the civil penalty actions are too small to warrant direct court of appeals review. The maximum civil penalty is either $1,000 per violation (section 8(b)(1)(A)(i)), or the amount of the original assessment (section 8(b)(1)(A)(ii)). Suits where the amount in controversy is this small should be brought in the district courts, not the courts of appeals.

Finally, we believe the Act creates the potential for abuse and confusion by assigning jurisdiction over some actions to the courts of appeals and over other actions to the district courts. Section 8 creates two other kinds of civil actions and expressly provides that they must be brought initially in the district courts. Further, the Act permits all three actions to be brought simultaneously by or against the same individual for the same

conduct. That is, (1) the Secretary could bring an action in the district court to restrain a violation of an order under section 8(A)(1); (2) he could also assess a civil penalty for willful violation of that same order, and the person subject to the penalty could seek review in the court of appeals under section 8(b)(2)(A); and (3) the Secretary could in addition issue a cease and desist order against the same conduct and then have the Attorney General sue in the district court under section 8(b)(4)(A) to enforce the civil penalty for violating that cease and desist order.

The entire enforcement provision (section 8) needs to be reconsidered to prevent this result. The most obvious part of the solution is to make all actions created by the Act reviewable initially in the district courts, not the courts of appeals.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Carol T. Crawford

Carol T. Crawford
Assistant Attorney General

Statement by Hon. Ron Marlenee
Subcommittee on Wheat, Soybeans, and Feed Grains
House Committee on Agriculture
Thursday, June 8, 1989

H.R.2209, The Soybean Promotion, Research & Consumer Information Act

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Mr. Chairman:

I commend you for holding this hearing today on the soybean check-off bill, H.R.2209. I think this is a very important measure for the future of American soybean producers. I believe that a properly structured self-help program which will provide adequate funding for soybean research and market expansion can result in long-term benefits to producers which far outweigh the costs of the investment.

As we noted when we introduced the bill, the original text was intended to be a starting point for further discussion and consideration. It is my understanding that the American Soybean Association and leaders of the American Farm Bureau have held extensive meetings in a true spirit of cooperation, and that those meetings have resulted in several suggested changes to the original text which are mutually agreeable. I compliment the leadership of these two fine organizations for their time and effort in making our jobs easier in this matter. I look forward to hearing from our witnesses, Mr. Chairman, and I relinquish the balance of my time.

Bill Emerson

STATEMENT OF CONGRESSMAN BILL EMERSON
SUBCOMMITTEE ON WHEAT, SOYBEANS AND FEED GRAINS
HEARING ON SOYBEAN CHECK OFF LEGISLATION
JUNE 8, 1989

Mr. Chairman, I want to thank you for scheduling today's hearing on this most important initiative. I believe our discussion today will serve to reinforce the backing this legislation enjoys among the soybean producers of this nation. I, for one, certainly support the implementation of this farmer backed "self-help" effort.

U.S. soybeans face strong competitors, at home and abroad. Not ready to stand aside, American soybean farmers have sought to aggressively promote U.S. soybeans and soybean products to consumers. Additionally, soybean producers also know the importance of extensive research to become more competitive and profitable.

Foreign competitors, such as South American soybeans, Malaysian palm oil and coconut oil from the Philippines are capturing new markets and making gains in traditional U.S. markets. These foreign efforts have resulted in billions of dollars of losses for American soybean producers; however, this program would give farmers a war chest of their own to address the advance of overseas producers.

I look forward to working with the various farm and producer components of the soybean industry to ensure this legislation represents their best interest. Mr. Chairman, let me thank you once again for holding this important hearing.

Mr. GLICKMAN. Next we will move to Mr. Roberts, my colleague from Kansas.

OPENING STATEMENT OF HON. PAT ROBERTS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. ROBERTS. I want to thank the chairman. I want to associate myself with his remarks.

Mr. Chairman, I do have a statement by the ranking minority member of the subcommittee, Mr. Marlenee, who was unavoidably detained and I would ask permission that his statement be included in the record.

Mr. GLICKMAN. Without objection, the prepared statement will appear after my opening statement.

Mr. ROBERTS. I want to say, as a cosponsor of the legislation, a special welcome to the panel and to our colleagues as well.

I am going to have to leave, Mr. Chairman. We are trying to take charge of a reservoir that is under Federal control and give it back to the State of Kansas, which is a little unique. Cedar Bluff out in my district.

So I am going to have to leave to appear before that subcommittee.

I do want to take note of the fact that on panel four, there is a gentleman by the name of Doyle Rahjes who just happens to be the president of the Kansas Farm Bureau, and a good and longtime friend of mine. A real leader in regard to agriculture not only in Kansas, but nationwide as well.

I want to welcome Doyle. I want to thank him for his contribution. I see several other people from Kansas, Mr. Chairman. I see Jimmy Rice out there from Liberal, and I think Paul Fleenor who rides shotgun for Doyle with the Kansas Farm Bureau is in the audience as well.

I especially want to reiterate your comments in regard to the environmental impact of this particular legislation. It seems to me that as we in agriculture step up to the problem as we have in regard to environmental issues, a great deal of education is needed in regard to the consumer.

We are into a virtual fire storm here in regard to food safety, and I think this kind of legislation is a means by which we can do a lot of very necessary educating in regard to the American public.

And I do not have a prepared statement. I would say to you, however, that I am hopeful, rather than a piece meal approach, say commodity by commodity, as we go through this, there can by some generic guidelines, if you will, so that as we go through this kind of legislation in the future, why we have a model.

Having said that, Mr. Chairman, thank you for your leadership on this bill. As a cosponsor, I am very happy to be here, and I welcome the panel.

Mr. GLICKMAN. Thank you, Mr. Roberts.

Mr. Johnson.

OPENING STATEMENT OF HON. TIM JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Mr. JOHNSON. Thank you, Mr. Chairman, I have no prepared statement to make. I want to commend you for holding this hearing and moving forward with legislation of this nature.

We have been going through, at the time of great flux, in soybean production and the American role in the soybean industry worldwide.

This legislation, I think, is a positive step forward. I think it says something about the recognized need for checkoff programs in light of the fact that so many States already have them.

In fact, only three producing States, to my knowledge, do not have a checkoff program. I am looking forward to the testimony in the hearing today as we examine the details of H.R. 2209.

I am particularly concerned that we have a candid and forthright discussion of the voluntary nature of checkoffs or involuntary about the control and management by producer elected boards, and also the nature of the referendums that may or may not be used to enact a checkoff program like this.

I think the overall concept is good. There may be some things that need some closer examination, the make up of the board and so on. But that is why we have leading producers and agricultural leaders here with us today.

I am looking forward to moving on with this issue.

Mr. GLICKMAN. Thank you, Mr. Johnson.

Mr. Volkmer.

OPENING STATEMENT OF HON. HAROLD L. VOLKMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. VOLKMER. Mr. Chairman, I too want to commend you for holding this hearing and as one who has worked with other members of this committee on promotional referendums for dairy, beef, and pork.

I look forward to working together with you and other members of this committee, the Soybean Association, and the Department, the farm organizations to bring this legislation to fruition within a reasonable time.

And, hopefully, we can have it enacted, and in law, and get on with it.

I again wish to commend you and the members of the Soybean Association, others who brought this up.

Mr. GLICKMAN. Thank you, Mr. Volkmer.

Mr. Campbell.

Mr. CAMPBELL. No.

Mr. GLICKMAN. Ms. Long.

Ms. LONG. I do not have any comment at this time either, Mr. Chairman. Thank you.

Mr. GLICKMAN. Is this your first subcommittee meeting since you have gone on a subcommittee?

Ms. LONG. Yes, it is.

Mr. GLICKMAN. Well, we would like to welcome Dr. Jill Long on this subcommittee. And I know Chairman de la Garza has welcomed you as well, but you are a producer?

Ms. LONG. Yes.

Mr. GLICKMAN. Farmer?

Ms. LONG. Yes.

Mr. GLICKMAN. Ph.D?

Ms. LONG. Not in agriculture, in business.

Mr. GLICKMAN. That is all right. Agriculture is a business, right?

Ms. LONG. That is right.

Mr. GLICKMAN. Anyway, we are delighted to have you here.

Ms. LONG. Thank you.

Mr. GLICKMAN. Now that we have two members from the State of Indiana——

Mr. VOLKMER. I thought agriculture was like rolling the dice.

Mr. GLICKMAN. Rolling the dice. Well, hopefully we are becoming more like a business all the time.

Ms. LONG. Hopefully, we can eliminate that rolling the dice aspect of farming, yes.

Mr. GLICKMAN. Yes. Thank you.

Our first witness is our colleague on this subcommittee, Roy Dyson.

Roy, I know you are accompanied by three gentlemen: Jerry Kennedy, executive director of the Mid-Atlantic and Virginia Soybean Associations; Mr. William Bradley, producer and treasurer, Mid-Atlantic Soybean Association; and Mr. Henry Spies. A producer and past president, same association. We are delighted to have you all here.

Roy, we are particularly delighted to have you here as a distinguished member of this subcommittee, and you may proceed in any way you deem appropriate.

STATEMENT OF HON. ROY DYSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. DYSON. Well, thank you very much, Mr. Chairman. I am very glad to be here. I am here to endorse your bill of which I am a cosponsor. And I think it is an excellent idea.

If I could just go away from my testimony for just 1 minute. I also would like to welcome Dr. Long to our committee. We are going to be sitting beside one another on the full committee and on the subcommittee. And it is nice to have her.

Mr. GLICKMAN. I am reminded, there use to be another Dr. Long here.

Mr. DYSON. From Maryland.

Mr. GLICKMAN. From Maryland, and the first time I met him—his name is Clarence Long and he was a Ph.D.

Mr. DYSON. Economics.

Mr. GLICKMAN. I introduced myself and he said, "Hi, I am Doc Long, but do not get sick." [Laughter.]

So I do not know if you are the same kind of doctor or not. [Laughter.]

Mr. DYSON. Mr. Chairman, again, as I said, we are very pleased to be here. And with me, you have introduced the people here. These are friends of mine.

In fact, one, Hank, who is sitting right next to me, has advocated this sort of thing for a long, long time. And on the way over from

my office in the Cannon Building this morning, he was saying what a good idea this was.

And, Hank, I turn around and tell you, there is the guy right up there that is responsible for it and most of the members of this committee, as you have said, are cosponsors of it. And it is a very good idea.

Mr. Chairman, the prosperity of the soybean industry is vitally important to the farmers that I represent in the First Congressional District of Maryland and the farmers throughout the country.

In 1988, Maryland's 3,600 soybean farmers set a State record by producing over 14.1 million bushels of soybeans valued about $108 million.

Soybeans, for the first time ever, surpassed corn as the leading cash crop in Maryland. This prosperity could be short-lived though if America soybean exports continue to decline.

Even though the world market has expanded over the last decade, U.S. soybean exports have declined from 66 percent of the world market to barely over 50 percent.

The aggressive marketing techniques of such countries as Brazil and Argentina have put American soybean farmers on the defensive.

Industry experts indicate these reduced sales have cost the U.S. economy about $1.9 billion in income. In addition, each delta/southeastern soybean farm has lost about $16,000 in potential sales. This translates into a loss of about $65 million in revenue from Maryland's soybean farmers.

Mr. Chairman, the soybean farmers in my district, and those throughout the country, realize they cannot afford to lose any ground in an increasingly competitive world market.

Therefore, I strongly endorse their proposal to establish a national checkoff system. This program would allow soybean farmers to raise about $60 million to research, promote, and market soybean products.

In addition, by developing new products, they will be able to create both new, domestic and foreign markets.

What soybean farmers are asking us to do is give them authority to set up a national program. H.R. 2209 will do just that.

This is not unusual. Congress has approved similar programs in the past for cattlemen, dairymen, hog producers, as well as other farm sectors, which Mr. Volkmer mentioned in his opening statement.

Mr. Chairman, I strongly believe that H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act will go a long way toward meeting the needs of our soybean farmers.

We must give our U.S. soybean farmers a fighting chance at gaining a larger share of the world soybean market. But only by authorizing them to create an assessment system will they be able to pay for the work that needs to be done.

Once again, Mr. Chairman, I want to thank you for the opportunity to address you and the members of our committee. With your permission, I would ask to allow these gentlemen, who you have introduced, to share with you some of their thoughts on this proposal.

And we will start with Hank Spies first.

[The prepared statement of Mr. Dyson appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you very much.

Mr. Spies, we are delighted to have here——

Mr. DYSON. Wait a minute. I did that wrong. Bill is going to start first.

Mr. GLICKMAN. Bradley first?

Mr. DYSON. Yes.

Mr. GLICKMAN. I would say to all the witnesses that you need not feel compelled to read your entire statement. If you could summarize it, the whole statement will appear in the record, so I would just say that not only to this group but to all the following witnesses as well.

So, Mr. Bradley, go ahead.

STATEMENT OF BILL BRADLEY, TREASURER, MID-ATLANTIC SOYBEAN ASSOCIATION

Mr. BRADLEY. Thank you for the opportunity to be here today. I am a full-time soybean farmer from Salisbury, MD. It is an honor to join Congressman Dyson in support of H.R. 2209, a bill to establish a nationwide soybean checkoff program.

Congressman Dyson is a friend of soybean farmers in Maryland and a leader of their interests. He understands that farmers want and deserve a good income in return for hard work to produce high quality food for consumers.

The purpose of the nationwide soybean checkoff is to allow farmers to work together to invest for a profitable future.

The bill would enable farmers to increase aggressive advertising, export expansion, and research soybeans. If we do not invest for our own future through this self-help program, who will do it for us?

As soybean farmers, we want to welcome, not resist change. Agriculture today is changing dramatically. Biogenetic seed breakthroughs are increasingly possible.

New uses for soybeans, new markets like the Soviet Union opening up, just to name a few.

But the global competition is tough. We want to work hard so that we may capture these new opportunities, not our competitors.

As I talk to soybean farmers in the Maryland and the mid-Atlantic area, they tell me they like the idea of a nationwide soybean checkoff.

They like the results they are seeing from our current statewide checkoff and they want an expanded program.

For example, the University of Maryland, College Park, and the University of Maryland, Eastern Shore, refunded research on disease control, variety genetic improvement, and ways to cut production costs.

Maryland soybean farmers have promoted the use of soybean oil and other soybean products to potential consumers such as the Maryland Food Dealers at State and county fairs.

Mid-Atlantic soybean farmers feel that the checkoff investment they are making shows results and they want to do more.

Farmers in my part of the country strongly believe that all U.S. soybean farmers who benefit should do the same.

One aspect of H.R. 2209 that I especially like is that it preserves States rights. The rights of each State soybean checkoff program to conduct promotion and research programs are protected under H.R. 2209.

For example, half the funds collected in each State would remain within the State to meet statewide needs.

Also, current State soybean checkoff farmer boards, created by individual State laws, would continue operating with the same membership.

These State boards are not, and under H.R. 2209 would not be, affiliated with individual State soybean associations. Membership on these State boards is either appointed by the State Governor or elected by farmers from each State.

Members typically include representatives from many diverse organizations. ASA's president will testify before you shortly on the details of H.R. 2209.

Speaking for the mid-Atlantic soybean growers, I strongly urge your support for H.R. 2209.

I appreciate the invitation from Congressman Dyson and Chairman Glickman to be here today, and thank you.

[The prepared statement of Mr. Bradley appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you very much, Mr. Bradley.

Mr. DYSON. Mr. Chairman, if we could have Mr. Spies next who is with the American Soybean Development Foundation.

Mr. GLICKMAN. Absolutely. Mr. Spies, you may begin.

STATEMENT OF HANK SPIES, PAST PRESIDENT, MID-ATLANTIC SOYBEAN ASSOCIATION

Mr. SPIES. Good morning. I am Hank Spies, a soybean farmer from Cordova, MD. Thank you very much for the opportunity to be here today.

I also thank Congressman Dyson for his interest and support for the soybean farmer. My experience in soybeans includes various leadership positions in the Mid-Atlantic Soybean Association and the American Soybean Association.

I have seen close up the threats to our future in farming. I have traveled overseas and seen the foreign competition. I know firsthand the need to increase research to boost yield, cut production costs, and increase profit per acre.

In Maryland, especially, we need more research to develop drought-resistant soybean varieties to withstand the kind of drought stress we suffered last summer.

The nationwide soybean checkoff bill was developed by farmers. It would be farmer run by farmers for farmers with USDA oversight.

The bill would create a funding program needed to promote our products more efficiently.

We do a good job with the resources we have now, but that is not enough to meet future challenges like foreign farmers investing 2 percent in Brazil's marketing and research.

By the way, we are only asking—nothing like that.

We know the Soviet Union has huge potentials. We want it to be our market, not lose it to foreign producers because we are asleep at the switch.

We can further develop exciting new uses for soybeans like soybean ink, with future research and aggressive promotion.

I get excited just thinking about the possibilities.

Bill Bradley talked about the nationwide soybean checkoff means for mid-Atlantic soybean farmers; James Lee Adams, ASA president, will share the national association's thoughts with you. I am here as a farmer, active in State and national soybean associations, asking for your support.

We greatly appreciate the leadership of Congressmen Glickman and Marlenee, who introduced H.R. 2209. We also appreciate the support of those members of the subcommittee who have cosponsored the bill.

We are ready to move forward with this subcommittee and Congress to enact H.R. 2209.

I am convinced that the nationwide soybean checkoff is a program that assures soybean farmers, like me, can be competitive and make a profit in the years to come.

Thank you.

Mr. GLICKMAN. The last speaker would be Mr. Kennedy.

STATEMENT OF JERRY KENNEDY, EXECUTIVE DIRECTOR, MID-ATLANTIC AND VIRGINIA SOYBEAN ASSOCIATION

Mr. KENNEDY. Thank you, Mr. Chairman. I would like to pass on a word that came back from some of the other States of the mid-Atlantic, the leaders of those other States wanted to thank you for your efforts on this legislation.

Also, to tell you that the States of Virginia, Delaware, and New Jersey, which represent the area, strongly support the concept of the national checkoff.

Thank you very much.

Mr. GLICKMAN. Thank you all.

Roy.

Mr. DYSON. Mr. Chairman, again, let me only say we are here to support your efforts. We think they are very good.

As I said, there are people here at this table as witnesses this morning who have been urging this for quite some time.

And they wanted to be here this morning, as did I, to urge you to do whatever you can to—and the rest of the subcommittee, do whatever they can to get this sort of thing enacted.

We want to thank you again for allowing Eastern Shore of southern Maryland farmers, the soybean farmers of Maryland, to come up here today to testify before the subcommittee.

Thank you, Mr. Chairman.

Mr. GLICKMAN. We want to thank all of you for coming, and particularly appreciative for your making sure that your own Congressman Roy Dyson is here and also on this committee.

We are delighted to have him on this particular subcommittee, because of his leadership on a whole assortment of ag issues, ag export issues, grain quality, as well as this particular issue.

And sometimes on this subcommittee we tend to think that all of the wheat, feed grains, and soybeans are deposited in Kansas, Iowa, Illinois, Ohio, Indiana, Missouri, and the Dakotas.

I am trying not to forget anybody on this subcommittee. [Laughter.]

But there is no question that this part of the country is a great repository of a lot of agricultural products that include items within the jurisdiction of our subcommittee as well.

So we are delighted to have you here, and appreciate very much your coming down.

Anybody have any questions of this panel?

Mr. Emerson.

Mr. EMERSON. Mr. Chairman, I have an opening statement. I apologize for being late this morning. I had another committee conflict, meeting conflict.

I ask unanimous consent to insert my opening statement in the record at the appropriate place.

Mr. GLICKMAN. Without objection, it will be placed in the record after Mr. Marlenee's statement.

Mr. EMERSON. Also, I would like to say to these fine witnesses before us that I appreciate very much your comments to us here today and I'm glad to have Congressman Dyson working with us on this committee in the interest of soybeans and other commodities.

It has been about 4 years now, when we were writing the 1985 farm bill, that I went, at the request of Congresswoman Byron of Maryland and Congressman Goodling from Pennsylvania along with Congressman Ed Jones, who was my colleague from across the river in Tennessee at the time, to hold a listening session as to what southern Pennsylvania and Maryland farmers wanted to tell us about what ought or ought not be included in the 1985 farm bill.

So I went up there with Ed, Bev, and Bill, and we listened at great length, 5 or 6 hours. We had a meeting in Westminster and there was a soybean farmer there from north central Maryland who said,

> You know, the problem with grain prices these days is you guys out in the Midwest produce too much grain and we fellows here in the mid-Atlantic States would be just fine if you desisted in that practice.

I just wanted to ensure myself here this morning that that certainly is not the attitude of the soybean farmers of Maryland and the mid-Atlantic States at this time, and to say to you that we are all in this together, and we want to work with you, and hope you do not consider yourself at odds with midwestern soybean farmers, which I am sure you do not.

Thank you very much.

Mr. KENNEDY. Well, we have a hard time competing with it but we are holding our own. And we think this idea is a very good one.

Mr. GLICKMAN. Mr. Volkmer.

Mr. VOLKMER. No questions.

Mr. GLICKMAN. Ms. Long.

Ms. LONG. No.

Mr. GLICKMAN. Thank you all very much for coming.

Mr. DYSON. Thank you.

Mr. GLICKMAN. We appreciate it very much.

Mr. DYSON. Thank you, Mr. Chairman.

Mr. GLICKMAN. The next witnesses are from the Department of Agriculture, Mr. J. Patrick Boyle, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture.

Also, staff has included a CRS Report for Congress on "Farm Commodity Promotion Programs," which should provide us with descriptions of all of the proposed promotion programs.

[The CRS Report appears at the conclusion of the hearing.]

Mr. GLICKMAN. You will notice that some of the proposed ones are in things like limes, and Christmas trees are included in proposals.

So this is not a subject that just affects the traditional commodities as well.

Mr. Boyle, we are pleased to have you here and you may proceed.

STATEMENT OF J. PATRICK BOYLE, ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY PAUL M. FULLER, DIRECTOR, LIVESTOCK AND SEED DIVISION, AND PHILIP L. MACKIE, DIRECTOR, OILSEEDS AND PRODUCTS DIVISION, FOREIGN AGRICULTURAL SERVICE

Mr. BOYLE. Thank you very much, Mr. Chairman. We are glad to be here. With me today on your right is Paul Fuller, the Director of the Livestock and Seed Division within the Agricultural Marketing Service.

Should this legislation ultimately be enacted, he has drawn the short straw and will have the honor and privilege of overseeing its implementation. He has had that responsibility most recently for beef and pork promotion programs.

On your left, Mr. Chairman, is Mr. Phil Mackie, the Director of the Oilseeds and Products Division within the Foreign Agricultural Service.

To the extent that you have any questions regarding the international trade of soybeans, he is here to answer those.

The Department currently oversees national commodity promotion and research programs for a number of products, beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, wool, lamb, and mohair.

And as you indicated, Mr. Chairman, the list seems to be growing.

Authority also exists for similar programs for the floral industry and the wheat industries, but programs are not currently in effect for those commodities, given the wishes of producers determined through a referendum.

These national promotion programs focusing on generic research and promotion efforts, generate in excess of $450 million a year to increase the public and commercial awareness of their commodities.

The Department has historically supported the self-help industry initiatives which are designed to help producers improve their position in the marketplace.

We have an active oversight role, Mr. Chairman, to assure that they are administered by the commodity boards in accordance with the authorizing legislation and with departmental regulations.

The annual budgets and work plans of these various commodity boards are approved by the Secretary, and Department staff is in regular attendance at board meetings.

This on going oversight assures that the producer funds are expended for purposes intended by the statutes.

The Department is generally supportive of H.R. 2209, and we commend you and your many colleagues, and, indeed there are a number of them who have joined you in cosponsoring this important piece of legislation.

The full statement, which we have submitted for the record, outlines our general support as well as recommending a number of changes which would conform this bill with departmental policy for existing research and promotion programs.

I would like to summarize the statement today, focusing upon those areas of recommended changes.

The first concerns refund and referenda. H.R. 2209 makes no provision for refunds or for an up front referendum of producers.

The Department believes that a provision is needed for refunds of assessments incurred on sales prior to the proposed delayed referendum.

Either direct refunds on a monthly basis, as is provided in many of these programs, or a provision for escrowing funds to make a one-time refund could be utilized by the subcommittee.

If the escrowing alternative is utilized, the Department believes that a minimum of 10 percent of total assessments collected during the period prior to the refund is reasonable.

Direct refunds or a provision for escrowing has been previously included in beef, pork, and egg programs. All of which had a delayed referenda similar to the one proposed in H.R. 2209.

Mr. GLICKMAN. Let me stop you for a moment. I am not sure you stated it as you wanted to state it. You believe that there ought to be a provision for escrowing a portion prior to the actual referendum itself?

Mr. BOYLE. Correct.

Mr. GLICKMAN. OK, that is fine.

Mr. BOYLE. Or, in lieu of that, during that period prior to the referendum, an on going monthly refund provision.

The second area of concern involves the reimbursement to the Department of expenses incurred in this program. H.R. 2209 provides for reimbursement to the Secretary for the cost of conducting a referendum and for oversight costs occurring after the issuance of an order.

Although the Department has previously absorbed salary and other costs associated with the promulgation or start up of most of these programs, their increasing number requires us to redirect staff resources from other appropriated program areas to handle the volume of work associated with their implementation.

Instead of continuing to absorb these up front costs, we believe that they should be borne by the affected industries, not by the taxpayers, and that H.R. 2209 should be modified accordingly.

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A third area involves the time constraints under which the Department would implement the proposed order. Section 4(a) requires the Secretary to publish a proposed order for notice and comment not later than 30 days after receipt of such a proposal and to issue a final order not later than 120 days following publication of the proposal.

The 120-day timeframe places severe time constraints on our ability to comply with the procedural due process requirements set forth in the Administrative Procedures Act.

The Department suggests that 180-day requirement would be more reasonable and more attainable.

A fourth area of concern involves the appropriate use of checkoff funds. It is important to remember that this is a research and promotion program, not a Government relations program.

Similar programs for other commodities prohibit the use of producer assessments for purposes of influencing any legislation, as does H.R. 2209.

But other programs also prohibit the use of these funds for influencing any governmental action. A narrow exception does exist for the purposes of recommending to the Secretary, amendments to the existing research and promotion order.

The Department believes that the language contained in section 5(n) should be amended to conform to this standard and should be applicable to the existing State soybean boards as well.

A fifth area concerns the administration of the order. Section 5(f) authorizes the United Soybean Board and the Soybean Program Coordinating Committee to use the staff and facilities of an established national nonprofit soybean producer governed organization to prevent duplication as inefficient use of funds.

Under the bill, such an organization is to be reimbursed for reasonable expenses of their staff, including salaries incurred in performing staff duties on behalf of the board and the committee.

The Department would caution the subcommittee about the potential for institutionalizing such an established national nonprofit soybean organization for these purposes.

Such a relationship could result in a conflict of interest, because the overall mission of a trade association, for example, is frequently broader, including a Government relations program, than is the purpose for mandating assessments for a research and promotion program.

Therefore, if this provision is adopted, Mr. Chairman, we believe that strict safeguards should be established to insure an arms-length relationship between the board and such an industry organization.

A sixth area concerns termination and periodic referendum requirements. Section 6(b) requires 30 percent of eligible producers to petition for a referendum to determine termination or suspension of the order.

We believe that the 30-percent requirement is too stringent, and it would be highly unlikely that dissatisfied producers could legally petition and trigger the referendum requirement.

The Department suggests that this minimum percentage of 30 percent be changed to 10 percent, and that the legislation include a provision providing the Secretary with discretionary authority to

provide the opportunity for producers, on a periodic basis, to reaffirm their support for an on-going program.

A seventh area concerns market access activities. Section 5(e)(2) authorizes the Soybean Program Coordinating Committee to develop plans or projects relating to the international market access activities.

The bill defines "market access" as activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products.

This definition would permit a wide range of actions designed to directly influence foreign governments. The provision would authorize the board to develop and implement plans and projects that could have the collateral and undesirable impact of affecting official U.S. trade policy and on-going negotiations.

Moreover, the provision would authorize the coordinating committee to influence the trade-related policies of various domestic agencies of Government such as USTR, the Department of Agriculture, as well as the Departments of Commerce and State.

We do not believe that research and promotion boards, established by Federal statute, administered by the Secretary of Agriculture, enforceable in Federal court, should be involved in the type of activities contemplated in this section.

In addition, if adopted, it would represent a far reaching precedent. No doubt one which would be eagerly pursued by numerous existing research and promotion programs.

Accordingly, the Department recommends deletion of any reference to market access, including its definition contained in section 3 of the bill.

In our view, the definition of "promotion" in section 3, sufficiently encompasses the industry's desire to pursue any action, including paid advertising, technical assistance, and trade servicing activities to enhance the image or desirability of soybeans or soybean products in both domestic and in foreign markets.

An eighth area involves State's rights. Section 10(a) prohibits States from conducting a referendum relating to the continuation or termination of qualified State soybean boards during the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such an order is conducted.

Since the bill authorizes the program for up to 3 years without a referendum, section 10(a) contemplates a possible 4½-year prohibition on the ability of States to administer the referendum provisions under existing State laws.

This provision represents a rather significant intrusion on State's rights. Accordingly, we would encourage the subcommittee to closely examine the need for retaining such a provision.

Finally, Mr. Chairman, a ninth area concerns the administrative costs of overseeing the program. The estimated startup costs, to be reimbursed to the Department for promulgation of the order would amount to approximately $150,000.

Annual costs thereafter for administration and oversight activities would be approximately $200,000. Costs for conduct of the referendum are estimated to be approximately $190,000.

Mr. Chairman, the Department looks forward to continuing to work with you, and your colleagues, and our Nation's soybean producers to advance this important piece of legislation.

That concludes the summary of my statement, and I would be happy to answer any questions that you and your colleagues may have.

[The prepared statement of Mr. Boyle appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you, Mr. Boyle, very much for your testimony. As I understand it, you are basically supportive of the bill, but you have some suggested changes that you would like to see included therein?

Mr. BOYLE. That is correct, Mr. Chairman.

Mr. GLICKMAN. Now, I think you make a good point on some issues. For example, the percentage of farmers, 30 percent, that number is an awful high threshold in terms of recall or whatever kinds of reconfirmation votes that we may have.

My hope and my feeling is the groups may work to reduce that in terms of trying to make sure that there is a greater opportunity for a smaller, more realistic number of producers to deal with these particular issues.

I also believe that on some of the other issues that you talked about in terms of the refunds that we are going to have to provide some up front ability for producers to get refunds and not wait until a referendum is actually held.

I think we will work those things out. I do not think that those things are going to be too much of a problem.

I am a little concerned, apparently you want the checkoff to pay the money up front to get the program started, including Department salaries?

Now that is something that has not been done before with other checkoffs; is that correct?

Mr. BOYLE. That is correct for some programs, Mr. Chairman. However, other programs, such as wheat and pork have borne these costs.

Mr. GLICKMAN. I presume that you want to propose it here because you want to set a precedent for other checkoffs. You are not just taking off after the soybean checkoff?

Mr. BOYLE. No, what actually prompted us to propose it here, Mr. Chairman, was that list of similar types of research and promotion proposals for other commodities that are in various stages of consideration here in Congress.

To the extent that they too are enacted, would significantly increase the workload of the agency prior to the referendum.

We would hope that Congress would consider whether or not we could have those costs up front reimbursed.

Mr. GLICKMAN. Well, as I understand it, this is unprecedented. After the program is implemented and operational, the program basically pays for the Department expenses, does not pay for your salaries, but it pays for Department expenses.

I do not want to see something like this create an enormous problem in the bill, but my own personal feeling is I am not particularly on the same wave length as you are on this particular issue.

Mr. BOYLE. Just to clarify, for the record, Mr. Chairman, after the referenda are completed successfully in the other programs that we administer, the annual reimbursement does include the cost of salaries.

Mr. GLICKMAN. In the other programs?

Mr. BOYLE. Yes.

Mr. GLICKMAN. Well, I think we have to replicate that then, but I do not necessarily want to start this program which begins with no money.

I think the goal ought to be the promotion of the product and deal—on this part of the picture, deal with it as we have done with the other ones as well.

Now you do raise a good point about this whole issue of what can this do legislatively or recommending changes in Government policy as opposed to just promoting products.

I think that there is developing some consensus language which hopefully folks can live with in terms of what these funds can be used for to influence policy

I understand your concern. You would not want basically a checkoff program that would necessarily be engaging in public policy promotion, which is different from U.S. Government policy.

I think that is a legitimate concern. I mean, the redress is through us, through the traditional legislative fashion.

The prime goal of this ought to be to promote, market, and sell products. And we understand that. Hopefully we can work this out as well.

I appreciate the fact that you have testified here. I do not see anything monumental that cannot be worked out based upon what you said today.

Mr. Emerson.

Mr. EMERSON. Mr. Chairman, I share the consideration which you have just expressed. I note in Mr. Boyle's statement that the Department would like to see the bill modified to prevent use of funds raised not only for purposes of influencing U.S. legislation's policy but also to proscribe use of any funds "to identify and to take action to remove foreign trade barriers which prevent market access for U.S. soybean."

I want to make sure that the Department does not think there is any harm if the funds are used constructively to try to eliminate unfair foreign trade barriers without attempting to influence U.S. legislation and policy.

I hope that is not your intent. Mr. Yeutter has said that he wants unfair foreign trade barriers removed. And I would hope the Department could consider the soybean interests a strong ally with him in helping to remove those unfair barriers.

So I would hope we are not going to be doing anything in our markup or in our bill that we may pass here that would inhibit our potential in fighting unfair barriers overseas.

Mr. BOYLE. I think you make a legitimate and a well founded distinction, Mr. Emerson. The soybean industry, like other segments of American agriculture, are an important ally of the U.S. Government in addressing and resolving barriers to international trade.

For example, the American Soybean Association is a cooperator with the Department's Foreign Agricultural Service. And in that

capacity, it works with FAS, accompanies FAS overseas to identify barriers, to discuss their adverse impact on the marketing of our American products abroad.

A wide range, wide array of cooperative activities between the industry and Government. They are an important ally as you say.

And those types of activities, Mr. Emerson, are, I believe, perfectly consistent with the definition of promotion set forth in this bill.

That envisions technical assistance, trade servicing activities, both to enhance the sales of soybeans here in the United States as well as throughout the world.

What we are concerned about, however, is the possibility with overly broad market access language that might permit the soybean board and its coordinating committee to, in effect, go in and begin negotiating directly with foreign governments regarding the existence of those trade barriers and possible resolutions to eliminate them or meliorate them.

A direct industry to foreign government contact, the industry contact funded by federally mandated assessments that might contradict or undermine or even confuse the foreign government's regarding our own domestic trade policies as set forth by the U.S. Trade Representative's Office.

Mr. EMERSON. For the moment, I would just note that I think we have to be very very careful in how we structure this, the language of the bill that we may report, because I certainly do not want us to be responsible for doing anything that would inhibit the promotion of American soybeans overseas or preventing knocking down foreign trade barriers, which is one of the most serious problems we have, particularly, vis-a-vis Europe.

I say let us give the American soybean farmers all the tools they need to accomplish that job.

Europe is very, very unfair in the level of subsidies that it levels on its grain producers who compete with us.

And I think we have to use every tool in the arsenal to fight that. I will let the point rest for the moment, but say that it is one we need to visit very, very seriously in the process of markup, Mr. Chairman.

Thank you, Mr. Boyle.

Mr. GLICKMAN. Thank you, Mr. Emerson.

Mr. Volkmer.

Mr. VOLKMER. Yes, I have several things. As one who, I said worked with earlier with other promotional things, with pork and beef, especially in the last—day earlier, the question of refunds was something that we struggled with, and fought over, and everything else and I had hoped that we would not have to do that this time, that we could come to a conclusion.

I noticed from Mr. Adams statement that 76 percent of the association really wants no refund. But I think what that tells me is that perhaps around 75 percent or so would not ask for those refunds because they are committed to the program.

So that may help us out a little bit in that area.

I think we have a serious problem in regard to the matter that the gentleman from—my fellow colleague from Missouri and gentleman from Kansas testified.

I would like to spend a little bit of my time on that thing also. First place is I looked at all the promotion research programs, beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, wool, lamb, and mohair.

I find none of those rely 50 percent on exports. Is that correct?

Mr. BOYLE. I will accept that. I do not have the figures in front of me but that sounds reasonable to me.

Mr. VOLKMER. I do not know, at least my knowledge is that none of those commodities rely that much on export. So we have got a different situation here than we have with those other ones.

I think we ought to start with that, recognizing that soybeans are a little bit different than anything else. And I think we need to work on this so that somehow we are able to permit them to continue to work on export access somewhere along the line.

I do not know how we are going to be able to do it, whether we can write the language by saying that the board and their employees cannot negotiate directly with foreign governments and leave that up to the American Soybean Association to do that.

My question is whether the Soybean Association, after all this, itself is going to have sufficient funds to do that?

Maybe we ought to look at ways to make sure when we are looking at this, if that is the case, they should do that and they have the funds to do it.

Would you agree on that?

Mr. BOYLE. Yes, Mr. Volkmer. We do not have any difficulty with the desire of the soybean industry to utilize this program, once enacted and implemented, to advance their position throughout the world as well as throughout the country.

We do not have any difficulty with them utilizing funds to achieve that end.

What we are concerned about is that with the market access language contained in the original bill, it does provide the opportunity for them to engage as an instrumentality of the Department of Agriculture, appointed by the Secretary——

Mr. VOLKMER. I understand your concerns.

Mr. BOYLE. OK.

Mr. VOLKMER. That more or less we, the Government, are facilitating them the money from which they operate under Government sanction, and therefore they use that sanction to try to promote maybe Government policy to an extent.

Mr. BOYLE. Right.

Mr. VOLKMER. I understand your concern.

Mr. BOYLE. Correct.

Mr. VOLKMER. But hopefully we can work this out to where they will be able to, as been said, work against unfair trade practices. If not them, the board, which cannot do, the associate can do. But to assure that the association have funds.

Now one other area that I want to explore to you too in regard to this and that is your concerns about the use of the Soybean Association institutional personnel, et cetera, being reimbursed by the board.

You have concerns about that. I am sure that you would have less concerns if say they used space within the association facility

to pay rent, et cetera, like that and had their own employees; is that correct?

Mr. BOYLE. To the extent that there is a distinction between an existing trade association funded through voluntary producer contributions, and the support personnel for the board, and the coordinating committee, the Department would feel more comfortable with it.

Mr. VOLKMER. All right. In other words, your concern is that same person is trying to wear two hats? That is your concern; right?

Mr. BOYLE. That is a correct assessment, Mr. Volkmer.

Mr. GLICKMAN. I want to recognize Mr. Volkmer, for 2 additional minutes.

Mr. VOLKMER. Where is the board going to get the money to pay you up front?

Mr. BOYLE. The other programs where that issue has arisen, we would envision that if the referendum is successful that the Department be reimbursed for those up front costs retroactively.

Mr. VOLKMER. In other words, they are not going to have to pay you in advance? You are not asking for that now?

Mr. BOYLE. No, we would only expect to be paid once the assessments are implemented and the money is coming in to the board.

I think I misspoke, Mr. Volkmer. Actually the assessments under this proposal will begin prior to the referendum.

Mr. VOLKMER. Oh, I understand that, 18 months.

Mr. BOYLE. Right.

Mr. VOLKMER. You have the order out. It is just like all the ones we had lately, the beef and pork. Still the 18 month thing.

Mr. BOYLE. Right. We would envision being paid retroactively for the first 8 or 10 months of work prior to the implementation of the order and the collection of assessments.

But once the board has those assessments, they could retroactively reimburse the Department for those up front costs.

Mr. VOLKMER. And in those costs you are asking for the salaries of personnel?

Mr. BOYLE. Correct.

Mr. VOLKMER. Do you envision that the salaries of personnel—the personnel working on this will work on this and this and nothing else? Now, come on.

Mr. BOYLE. Why do I not let Mr. Fuller, the Director of the Livestock and Seed Division answer that.

Mr. VOLKMER. I would like to have Mr. Fuller answer that. I think it would be more appropriate.

Are you going to delegate certain people within your division to just work on the soybean and that is all they will work on?

Mr. FULLER. Maybe not all that they would work on, but there would be a tremendous amount of work to be done, which would be directly related to the Soybean Program.

Mr. VOLKMER. How would you determine that if we were going to make them pay the salaries?

Mr. FULLER. We keep a record of how much time they are spending on each one of these programs and charge accordingly.

Mr. VOLKMER. Thank you, Mr. Chairman.

Mr. GLICKMAN. Thank you.

Mr. Penny.

Mr. PENNY. Mr. Chairman, no questions.

Mr. GLICKMAN. Mr. Dyson.

Mr. DYSON. No.

Mr. GLICKMAN. Ms. Long.

Ms. LONG. No.

Mr. GLICKMAN. We thank you for testifying. We will do our best to work on some of these problems and get them resolved.

Mr. BOYLE. Thank you, Mr. Chairman.

Mr. GLICKMAN. Our next panel is Mr. James Lee Adams, president of the American Soybean Association; Mr. Patrick Delanty, president of the Iowa Soybean Association.

We are delighted to have you here. James Lee has been a leader in this effort, and I have—James Lee, I happened to notice that in today's Washington Times there is a little story about one of our other issues and that is the accurate labeling of oils in foods which the Soybean Association has been a leader in as well.

So we are delighted to work with you on that one as well as this issue. And you may proceed.

STATEMENT OF JAMES LEE ADAMS, PRESIDENT, AMERICAN SOYBEAN ASSOCIATION

Mr. ADAMS. Thank you, sir. We appreciate your efforts in that area too.

I am James Lee Adams. I farm in Camilla, GA where I grow soybeans as well as some other crops.

Just some general information on soybeans. About 450,000 farmers in this country who grow these soybeans, we expect, Lord willing with some good weather, we raise close to 2 billion bushels this year on 60 million acres.

It is a major source of protein and oil, as you know, in this country. Half of the U.S. crop is grown overseas and I appreciate your sensitivity to this question to market access because of that.

I think it is rather unique. Some other crops do have to focus overseas, but primarily from checkoff point, we are the ones up front on that.

Sometimes, we are called the "gold that grows." And U.S. consumers, you and I, all of us use about 35 pounds of soybeans a year in many products from wallboard to antibiotics to particularly meal and oil.

And meal, of course, is being used heavily in chickens and other products such as pork and beef.

We have some challenges, tremendous challenges. Demand is there. As you stated earlier, Mr. Chairman, it is growing at about 5 percent a year worldwide.

World population is growing and we anticipate this demand as incomes increase to do nothing but go up. And what we want is our fair share of those increasing markets.

But today we are being out marketed by competitors around the world. We have a losing market share in a growing market and that is going to be fatal.

U.S. soybean meal exports are 34 percent, soybean oil exports are down 50 percent since 1981. And even more frightening to us, 85

percent of U.S. consumers cannot identify the fact that they use soybean oil in cooking and other uses.

But at the same time, we have some tremendous opportunities coming down. We see soybean ink. As you know, about 1 year or so ago, only four out of six newspapers were using soybean ink. Today we are seeing over 1,000 newspapers using soybean ink.

We also have a problem that soybeans, foreign soybeans, are perceived as better quality soybeans than U.S. soybeans. We have got to have an aggressive promotion for quality U.S. soybeans.

We have got to have some breeding programs to raise the quality, both the oil and protein content of soybeans or we will be further squeezed out of markets in the future.

We have got to increase productivity, yields are out to developing. And we have some tremendous opportunities in this area alone, today, because of biotech promises.

We have an opportunity to have some new uses for soybeans and new types of products out of soybeans if we have the funds to take advantage of it.

I think as Mr. Spies stated earlier, we also have an opportunity to put in drought resistance in the soybeans. We have ability to put in insect resistance where we have to use less pesticides.

So there are some tremendous opportunities if we have the funds directed under farmer control to take advantage of this opportunity.

Now foreign competition is already doing it. For example, in Brazil, 2 percent of the value of soybeans is checked off for research and market promotion, 2 percent.

We are talking about one-half of 1 percent here in the United States.

As earlier questioned on foreign market access. As I stated earlier, this is an important part of market promotion.

Approximately 75 percent of the soybeans that are exported are going to countries with central marketing facilities. In other words, a country itself.

So, in effect, when we go overseas to countries like Russia, India, the Eastern bloc where we have some tremendous opportunities for growth.

For example, we were told just 3 months ago that the Russians, within the next decade, could take up one-half of the U.S. crop on an equivalent basis.

That is going to be their requirements for oil and protein.

And if we are not allowed to use checkoff funds to approach these foreign governments, not to establish foreign policy, that is the last thing we want to do.

But we need those checkoff funds to be able to approach foreign governments to make sure we have access to those markets because that is where the real growth potential, we feel like, over the next few years is going to be.

We cannot export soybean products if those markets are closed. So we have to have market access. We have got to educate foreign government officials about the benefits of using soybeans.

And this is a project we have been doing in Russia just recently and has tremendous potential and tremendous implications of abili-

ty for them to feed their people better and to buy oil and protein from the United States.

Particularly the protein because they are too far north to be able to grow soybeans in the long run and they have to go outside of their own country to get this type of product.

I would conclude that we would like to answer any questions. We have been in contact with a large number of the farm organizations.

And we would like to move this bill as quickly as possible. We would like to move it in and of itself if possible. Because we think this bill could stand on its own and has a lot of validity.

And I look forward to working with the committee in moving this legislation.

Thank you.

[The prepared statement of Mr. Adams appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you, Mr. Adams.

Mr. Delanty, it is a pleasure to have you here, and we have one of your Iowa members here, Mr. Nagle.

STATEMENT OF PATRICK DELANTY, PRESIDENT, IOWA SOYBEAN ASSOCIATION

Mr. DELANTY. I thank you, Mr. Chairman. I am a member of the Iowa Soybean——

Mr. GRANDY. Excuse me, Mr. Chairman, what is wrong with me.

Mr. GLICKMAN. We have two of his Iowa Members. Enough for a quorum.

Mr. GRANDY. One is on either side of him.

Mr. GLICKMAN. You have two very distinguished Iowa Members, each of whom is among the top 5 percent of quality in the House of Representatives. [Laughter.]

Mr. DELANTY. I recognize that, Mr. Chairman.

Mr. GLICKMAN. And low in unsaturated fat. [Laughter.]

Mr. DELANTY. We are most appreciative of the two Congressmen from Iowa and recognize that they are doing the job in this bill that is going to make a successful bill.

I am president of the Iowa Soybean Association. I am a grower from Charter Oak, IA. I want to thank you for the opportunity to speak on this today.

I am not going to reiterate some of the things that have already been said. James Lee has covered it. One of the main things we are trying to do here today is to address the mismatch, the patchwork of 26 States that have individual checkoff programs.

We would like to see those brought under an umbrella that allows us to coordinate the programs to get the biggest bang for the dollar.

Also, four States are not checking off at the present time. We feel that that is not fair. We need a nationwide program.

A little background on when we arrived at this. We took a poll—this has been in the mill for 1 year—272 farmer delegates came in over a period of time, hashed out the details, said what they wanted.

Then we have taken a poll—surveyed 3,400 people, growers out there across the country. Out of that 3,400, 90 percent of them are not ASA or ISA members. They are individual growers.

They come back, they want the program to be fair, they want farmers to run the program, 50 percent of the funds invested at State level, limited administrative costs, have a farmer referendum.

This is all included in the bill. These 3,400 farmers overwhelming do not want a refund. They support the half percent.

Seventy-nine percent want the administrative cap. Seventy-one percent of them want ASA to be the contractor eligible to implement and manage the national funds.

The question was raised or statement that mid-Atlantic States are at odds with the Midwest. No, this is absolutely wrong. And I know it was not placed in that way, but there is the support in the country.

If anyone is at odds at all, it is the mid-Atlantic States and the Midwest together at odds with the foreign competitors that we have today. We have to do something about this.

I am not going to get into the programs. James Lee has covered that. I want to assure you there is the support. I want to thank you for the opportunity today to come before you and address you on this bill. And would be glad to field any questions, attempt to answer them, that you have.

Mr. GLICKMAN. Thank you very much. I have a couple of questions. I noticed that in your statement, James Lee, you say that South American soybeans are perceived by buyers in Europe and the Soviet Union as having better protein and oil content than United States soybeans. I was not aware of that.

Mr. ADAMS. Yes, sir, in fact I think you will find out too it has probably been verified by the USDA. They have been pulling some samples over the last few years.

And, in fact, what we attribute it to is not anything environmental, but we attribute it to the fact that they have a superior breeding program.

If you look in the southern United States, for example, we have generally a high oil and protein content than we do in the Midwest.

And what has happened, the Midwest has been breeding strictly for yield, because thats what we farmers are paid for.

By breeding for yield, unfortunately, over this period of time, they have actually bred out the oil and proteins.

What we need to do now is to institute a good breeding program, because we know in the future we will be paid on the basis of oil and protein.

We have got a real problem in the Midwest from that point of view. To balance it off on the South, we have some yield problems we need to address to make sure that we are competitive worldwide.

But it is a problem, yes, sir.

Mr. GLICKMAN. Well, that is a potentially very serious problem.

Mr. ADAMS. Absolutely.

Mr. GLICKMAN. One that hopefully this bill will address in terms of its research effort.

What is the status on soy ink? I think you testified that there were what, 1,000 newspapers?

Mr. ADAMS. Yes, sir.

Mr. GLICKMAN. Are we finding that trend growing?

Mr. ADAMS. Yes, sir. As I said, for the last year, we went from about 5 newspapers to over 1,000. We have since that time, because of some limited research funds we have had, had some further breakthroughs where we can start printing on more slick paper.

But we do need some additional research to make it even more environmentally sound where we break it down completely and not have adverse affects on the environment.

We think if this is fully implemented, and some further research to make it fully applicable in all uses, that we are talking about a potential usage from 70 to 100 million bushels of soybeans, potentially, in the United States.

Mr. GLICKMAN. That would be what? That would not be assuming every newspaper in America or every book that was printed would be using soybean oil, would it?

Mr. ADAMS. No, sir. I assume it is just a rational projection of what is possible. But it makes so much sense, Mr. Chairman, to move away from the petroleum-base ink from an environmental point of view.

I think probably we will see from a cost point of view of what happens in the future that it is going to be the choice way to go.

Mr. GLICKMAN. I do think that chemically, soybeans and petroleum have a unique consistency in terms of chemical compounds which allow them to be used for similar purposes and not have the potentially destructive environmental impact.

I agree with what you are saying and also what Mr. Robert's was saying about the profound impact on soybean use. Particularly in the oils for printing purposes and other kinds of things. It could be dramatic in terms of this country and the world as well.

Mr. ADAMS. Yes, sir. We are getting new uses even beyond that. I think we told you about that the other day, a new product called bail butter where they are taking soybeans and extruding them and using them to replace these plastic covers that go over these large hay bails. It protects them from the weather.

The advantage of it is the old plastic that is normally being used is not edible, of course, by the cow or any other animal.

In fact, it also stays around. We have seen them stay out there in the fields for years and years. Well, this product has nutritive value for the animal and she can eat it.

And, of course, it is gone and disposed of in a proper manner. So, we need some more funds. I think the limits right now is not our imagination, but the funds to be able to go out and seize these new uses.

Mr. GLICKMAN. Finally, I am aware that you have been in discussion with some of the other farm groups on some of the issues that have been contained in the bill. I think that perhaps some of the folks on the last panel may talk about these. I know that Doyle Rahjes and others have been involved.

But as I understand it, there is now some consensus on the issue of recall, on reconfirmation, on refunds, and on some definitions of terms?

Mr. ADAMS. Yes, sir.

Mr. GLICKMAN. Do you feel that you have reached a consensus on these issues?

Mr. ADAMS. Yes, sir. We would still welcome any suggestions that the committee had or any other farm organizations would have.

But, again, we are starting to see a consensus bill in the countryside as to open issue.

Mr. GLICKMAN. And as I understand it, on the issue of refunds, what is being talked about right now is, is that refunds would be available until the order were actually issued—the vote would occur between 18 and 36 months after the issuance of the order.

Mr. ADAMS. Right.

Mr. GLICKMAN. And once that vote occurred, refunds would be available up until the approval of any delayed referendum?

Mr. ADAMS. Yes, sir. We do not want to hold the funds back. We want to get them out to the farmer as soon as possible.

Mr. GLICKMAN. Well, I will be interested in terms of what all the farm groups have to say about these particular provisions, but I did know that particularly on the refund issue we were going to have to make some modifications to this bill.

Mr. ADAMS. Yes, sir.

Mr. GLICKMAN. Mr. Nagle.

Mr. NAGLE. I want to thank you. First of all, I want to welcome my president. I want it on the record that I am a member of the American Soybean Association. It cost me $35.

Mr. ADAMS. And never did pay.

Mr. NAGLE. I attended your conference in St. Louis and I was held up publicly in front of the entire Soybean Association and they demanded $35 of my money. [Laughter.]

I noted that Mr. Adams, the chairman, the president, paid out of his own pocket, his membership fee. And Mr. Delanty did not pay mine. [Laughter.]

Mr. DELANTY. We in Iowa, Mr. Congressman, are very conscious of the debate on the honorarium, and we certainly would not want any problems with our Iowa Congressman. [Laughter.]

Mr. NAGLE. You do not seem to understand it has always been a question of whether we are paid or not. [Laughter.]

It is the first time we have ever been required to pay to give a speech. And I grant you it was not a very good speech. [Laughter.]

I want to go right into where Mr. Glickman was with what little time I have left. On the recall, is it acceptable to you if the Secretary holds a recall referendum if 10 percent of the soybean producers represent a minimum number of State petitions for such a vote?

Mr. ADAMS. Yes, sir, absolutely.

Mr. NAGLE. And such a minimum would be, in your judgment, 20 percent of the States requested?

Mr. ADAMS. Yes, sir. What we would like to do is see it have some wide geographical dispersion and not just say localized at one State.

Mr. NAGLE. Is it acceptable to the American Soybean Association if the soybean producers are given an opportunity once every 5 years to have a reconfirmation?

Mr. ADAMS. Yes, sir.

Mr. NAGLE. And that would be if the Secretary would require to call for such a referendum if 10 percent of the Nation's soybean producers request a reconfirmation vote?

Mr. ADAMS. Yes, sir. What we would like to do is have a well publicized day in which they would go in and make such a request.

In other words, it would be something that would be well publicized so they are aware of that opportunity. And then if that dissatisfaction is expressed, then at that point in time, he would call for a referendum.

Mr. NAGLE. Then with regard to this influencing, the market access, I understand you have reached an agreement with some of the farm groups, at least, that it would be specific in the legislation that the checkoff funds could not be used in any manner for purpose of influencing Government action or policy with the exception of recommending amendments to the order.

Is that correct?

Mr. ADAMS. That is correct. The U.S. Government, yes, sir. We would like to have an opportunity though to try to influence foreign government if they were the sole purchase of soybeans, for example, to be buying our soybeans.

But as far as the U.S. Government, we are adamantly opposed to any checkoff funds being used for lobbying purposes.

Mr. NAGLE. And I think the last point Mr. Glickman testified to was, that it is acceptable to the American Soybean Association also; Is that correct?

Mr. ADAMS. Which point was that, sir?

Mr. NAGLE. With regard to the providing for a refund up until approval of the delayed referendum?

Mr. ADAMS. Yes, sir, absolutely.

Mr. NAGLE. Are there any areas of remaining controversy between yourselves and various other farm organizations?

Mr. ADAMS. I would probably let them speak to that themselves, sir. We would like to talk to them. If they do, I know some other groups want the right of refund after the election.

We have seen evidence from our farmers and as Pat said, this was an independent poll incurred which we hired. And 76 percent of the farmers nationwide will say if everybody is going to benefit, everybody needs to pay.

Mr. NAGLE. Well, let me state, if I could—I see my time has expired, but let me just state in conclusion, I am supportive of the bill.

I think I am the original cosponsor of it. I would like to see it move in a manner in which all farm organizations are comfortable with the legislation.

I congratulate you on showing the flexibility necessary to work toward a consensus to see this legislation is passed.

Mr. ADAMS. Thank you.

Mr. GLICKMAN. Thank you.

Ms. Long.

Ms. LONG. Mr. Delanty, you gave some figures and I did not get them all written down. You gave some figures about farmers, soybean farmers, wanting refunds and some others.

Could you go back over those figures so I can get them?

Mr. DELANTY. I certainly will, Ms. Congressman.

Ms. LONG. Congresswoman. [Laughter.]

Mr. DELANTY. We realize that it is impossible to have a full agreement on anything, a 100 percent. In the statistics, 3,400 farmer interviews were randomly called, over 90 percent were not ASA members.

Ms. LONG. Were those farmers from all over the country.

Mr. ADAMS. Yes, ma'am.

Mr. DELANTY. All over the country.

Mr. ADAMS. Dr. Long, it was geographically balanced per State. In other words, if a particular State had 2 percent of producers, it was randomly selected.

Also, it was a firm independent of us. It is a nationally recognizing holding firm. It is not us doing it with our list.

Ms. LONG. OK.

Mr. DELANTY. Then to go on, 75 percent of the poll favors the national checkoff research program at that rate of one-half of 1 percent.

From the poll, 89 percent say they want it to be farmer run, 79 percent want a 5-percent administrative cap. Seventy-six percent, as James Lee has said, want absolutely no refunds.

That was very emphatic. Everybody shares, everybody pays, it will be fair. Seventy-one percent want ASA to be the contractor eligible to implement and to manage the national funds.

And 71 percent want States to keep 50 percent of the funds in State for their programs.

Ms. LONG. Thank you.

Mr. DELANTY. You are more than welcome.

Ms. LONG. Thank you, Mr. Chairman.

Mr. GLICKMAN. Thank you.

Mr. Grandy.

Mr. GRANDY. Thank you, Mr. Chairman. I too am pleased to be a cosponsor of this legislation.

Mr. Delanty, I am not a dues paying member of the Iowa Soybean Association. However, my wife has a birthday coming up and I think that would be a lovely gift. [Laughter.]

Let me ask you something and I just asked the chairman if Mr. Boyle from the Agricultural Marketing Service is still here. Could you return to the stand, Mr. Boyle?

I wanted to address this question of the definition of "market access." I gather there is a difference of opinion.

You, sir, are representing the feeling as though the soybean associations might be intruding on Government priorities and responsibilities.

I just wanted to know if perhaps by having you sitting together and talking about this if we could work something out.

You, evidently have a problem with the definition of "market access activities," feeling, I guess, that in a sense, the Soybean Association would be conducting the work of the U.S. Trade Representative or USDA or perhaps even the State Department; is that correct, sir?

Mr. BOYLE. Yes, that is correct, Mr. Grandy.

Mr. GRANDY. Mr. Delanty or Mr. Adams, how do you address Mr. Boyle's concerns? What kind of comfort level can you give him so we do not have to sit here?

Mr. ADAMS. First, Mr. Grandy, we do recognize that we are not farm policy representatives of the U.S. Government.

Second, any type of project that we as farmers approve, has to be also approved by the Secretary of Agriculture.

And I think that is just a tremendous safeguard from that point of view.

Mr. GRANDY. But I gather, Mr. Boyle, you do not agree with that, that the Secretary of Agriculture, who could supposedly preclude the Soybean Association from I suppose, interviewing with foreign representatives of governments, that is not enough of a fire law for you?

Mr. BOYLE. No, we really do not think so, Mr. Grandy. And the reason we have some reservations about the discretionary authority that might reside with the Secretary on this particular question is based upon our reading of section 8, in the definitional part of the bill, that describes what type of market access activities would be authorized by Congress.

These activities would be designed to identify and eliminate barriers to trade or market access restrictions regarding soybeans.

That language we feel is a broadening of the general promotional activities which are authorized in the promotion part of this particular bill.

And, indeed get into the very specific area of dealing with foreign governments on issues regarding the barriers to trade, internal subsidies, producer subsidies, processing subsidies, tariff schedules.

All of which reside uniquely under current law with the U.S. Office of Trade Representative. We would like to avoid that conflict, as I gather the soybean witnesses at this table would like to as well.

We think the language in the statute should reflect the wishes and the concerns of the various parties here.

Mr. GLICKMAN. Would you just yield for a moment?

Mr. GRANDY. I would be pleased to yield, Mr. Chairman.

Mr. GLICKMAN. I just think, however, it is important to note that ASA, which currently has FAS cooperator funds now, to deal overseas, and TEA Program funds, they already do this.

I want to make sure that we do not sterilize the ability to sell overseas. I mean, these groups already have to deal with trade barriers including your group, Mr. Adams; is that not correct?

Mr. ADAMS. Yes, sir, that is correct.

Mr. GLICKMAN. And you get cooperator fundings so you are overseas. I mean you are doing some of this now, including some areas that might be called market access type of activities I presume.

Mr. ADAMS. Yes, sir.

Mr. GLICKMAN. So I do not want to do anything that sterilizes them or at a minimum, detracts from what they currently do right now.

Mr. BOYLE. Mr. Chairman, we feel the same way about that concern. Under the cooperator program administered by FAS, ASA, as

a privately funded trade association, does have a relationship with FAS.

And through them with foreign governments to address market access, to address trade barriers, and working through FAS, and through the Department with USTR to eliminate those.

For example, ASA members, as part of their cooperative role, go overseas to visit with foreign business leaders and governmental leaders.

They do so as part of a trade mission under the auspicious and the direction of the Foreign Ag Service. In effect, an extension of the official role that FAS has in international trade matters.

We do not want to extend through a research and promotion program, a broader grant of independent authority to the board or the coordinating committee that would allow them to negotiate down trade barriers directly with a foreign entity outside of the oversight, and the direction, and the cooperation of the U.S. Trade Representative.

Mr. GRANDY. But, Mr. Boyle, if I could interrupt you for a moment, they could not do that because the discretion lies with the Secretary of Agriculture.

Now, am I hearing you say that perhaps that discretion would have to be shared with the U.S. Trade Representative or the Secretary of Commerce?

I do not think, as I read this section, section 8, with the understanding that the final discretion lies with the Secretary, that Mr. Adams or Mr. Delanty or anybody from the Soybean Association could negotiate away a trade barrier or create a trade barrier unless the Secretary agreed to it.

I guess what I am hearing you say is there should be some kind of a Government official, either Foreign Agricultural Service or a Trade Representative or somebody who is under the employ of the United States of America to cut that deal.

Under this particular provision, that individual is the Secretary of Agriculture who is somebody that I think we would have some confidence in.

I guess I just do not understand what the hassle is, to tell you the truth. And I think this is fairly innocuous language.

As Mr. Delanty knows, I asked him the same question in my office yesterday, and I said, "Are you, in a sense, taking responsibility away from FAS or your office, the Agricultural Marketing Service or the USTR?"

And they said, "No, because all you can really do is have a conversation and you can reach an understanding but it cannot be confirmed unless the Government swears off it."

Now, either one of you gentlemen, if I am saying something that does not reflect your opinion, please jump in because I want to give Mr. Boyle some comfort here too so we do not have an obstacle in this piece of legislation.

Mr. Adams.

Mr. ADAMS. I agree with you, Mr. Grandy. It would be the same to me from the way I see it for me to be able to go out and contract to buy a car from you today, you know, for you.

I cannot do it. I am just not in power to do it. And we do not seek that type of power, but we do seek the power to go to foreign

governments and try to address their needs as far as buying soybeans.

For example, the Soviet Union. There is no way in the world that we could approach them without approaching the government over there.

And we desperately need checkoff funds to be able to sell half of U.S. crop potentially to that area.

Mr. GRANDY. Mr. Boyle, do you want to respond?

Mr. BOYLE. That is a very legitimate use of the checkoff programs as we envision their usage should this program be implemented.

There are a number of countries, as you know, Mr. Grandy, that the buying of imported food products is controlled by the government, directly or indirectly.

And to the extent that the soybean industry, through a promotion program, wants to promote their products abroad, they do need to approach government officials in those countries such as Russia, and China, and Eastern bloc nations.

But to approach them as a consumer, as a customer, with the purpose of selling their product, not to approach them as a representative of a foreign government charged with addressing and resolving trade barriers or duties and tariffs that might exist in that country.

To the extent that they need to approach them as a customer, we feel we can work out language that would accommodate that desire and allow them an opportunity to promote their products.

We have very strong reservations about this particular language that is broad enough, we believe, to allow them to go that next step in dealing with foreign officials and not just in Eastern bloc countries or Russia, but any foreign official of any country to begin negotiating specific trade barriers.

The responsibility of which we believe should reside with the U.S. Trade Representative.

Mr. GRANDY. Well, I am sorry, sir, I still feel as though we are splitting here or at least involved in some kind of semantic warfare here.

Could you give me an example, give the committee an example, of where you as a government official feel it would be improper for the ASA to approach a foreign government?

Is it a blanket rule that they should not approach any government officials or is there an area where they could?

I guess I want to hear an example of abuse that you feel would be a violation of this agreement.

Mr. BOYLE. Well, let us talk about first a permissible area and I will just refer to it briefly because we have talked about it already.

Instances where government officials are customers of the soybean export sale. That would be a legitimate contact and one that we would support and cooperate with.

A potentially troubling conflict might arise, for example, if the promotion board with these checkoff funds travel to the European Economic Community and began meeting with Minister Andreasan and other officials of the EEC regarding the internal subsidies for their soybean industry.

Items which are directly a part of the ongoing Uruguay Round negotiations which are being coordinated by the U.S. Trade Representative.

There is a potential for confusion, for conflict, and for the ultimate weakening of the official trade position. We would have reservations about that kind of contact and our reading of the statute, as introduced, would allow that type of troubling contact.

Mr. GRANDY. Well, the chairman just pointed out that would violate the Logan Act right now; would it not?

Mr. ADAMS. That is right.

Mr. GRANDY. So if they engaged in those kind of activities, they would be in violation of the present statute.

Also, why do we have to circumscribe this language to the point where we would have to add another hurdle they would have to jump over?

Now let me go back to your example of visiting the European Community and talking with Mr. Andreasan about their internal tariffs and subsidies.

At what point do these members of the Soybean Association, if they are talking about trade policies and trying to access consumer markets in the EEC, at what point do you cross the line?

When you mention their subsidy network when they suggest that internal subsidies are a deterrent to global market access?

I guess I do not know exactly how you enforce something like that unless you just try to prevent it entirely. And, even if you do, who is going to be watching?

Mr. BOYLE. That is a related troubling concern the Department has about this particular section, Mr. Grandy. It is precedent setting and you are right, it is very difficult to administer and enforce.

Under our existing research and promotion programs, producers, through their boards, do promote products throughout the world.

The beef industry, for example, has a fairly large funded advertising campaign targeted toward consumers in Japan. They initially wanted to go in and lobby the members of the Japanese diet regarding beef quotas.

We thought that was a prohibition under their statute and also a troubling precedent because of the difficulty in administering that.

They reverted to general consumer information. That is a much cleaner way to oversee these programs and to administer these funds.

Mr. GRANDY. Well, let me ask you this then. Let us say the Soybean Association goes overseas to Europe, plans a series of meetings, one of them which might be with some members of the European Parliament.

If it is the Secretary's discretion, could not the Secretary say before they even departed that that meeting is off limits?

Do you read the statute that way?

Mr. Adams, you are nodding. I assume you do read it that way.

Mr. ADAMS. I read it he can prohibit any action he feels inappropriate.

Mr. GRANDY. So, in other words, it could happen before you even have the meeting; right?

Mr. ADAMS. Yes, sir.

Mr. GRANDY. Do you not read the statute that way, Mr. Boyle?

Mr. BOYLE. Not the market access activity definition, Mr. Grandy. To the extent that the Secretary does retain that discretion to prohibit those types of meetings that might have the effect of eliminating barriers to trade or market access restrictions.

We have in the bill, as introduced, specific language authorizing such contacts. So, as a result, we have a conflict in the statute itself, aside from the contradiction with the Logan Act to which the chairman referred.

To the extent that we can make this language consistent with restrictions that might apply under the Logan Act, I must confess I am not an expert in that area, but to the extent they can be consistent, that might address it.

Mr. GRANDY. Well, all I can say, and I do not think we are going to get anywhere with this particular exchange, but I think we are, in a sense, shooting ourselves in the foot by not allowing these producer and consumer groups to go over and, if you will, access, identify, and attempt to eliminate trade barriers which perhaps are USTR or a delegation from the FAS have not been successful in doing.

If they add another component to the argument within the confines of U.S. law, then I think trade policy is enhanced not impeded.

And sometimes producer to producer, consumer to consumer or consumer to government official.

For example, when the Australian Wheat Board comes and talks to me about our wheat subsidies, I do not think that is an illegitimate function of their association.

So, I guess I have to side with the Soybean Association on this one. I still do not see what the problem is. I would invite you, if you choose, if you want, to submit to this committee in writing, an itemized grievance list and possibly, Mr. Boyle, if this would be helpful, some recommended language that you might be able to accept and the Soybean Association might be able to agree to.

Mr. Chairman, I have no more questions.

Mr. GLICKMAN. Mr. Volkmer.

Mr. VOLKMER. I would like to, because I see this is one of the major hurdles in getting this legislation through and getting it worked out, I would like to proceed with it as I did with Mr. Boyle initially, but a little different attack.

Mr. Adams, I am sorry I was not here. I had other things to talk about on my other subcommittee with some people, so I do not know if you have answered this or not earlier to Mr. Grandy.

Say in the past couple of years or at least the past year, either one of you can answer this, Have you or any members of your association done any of the things that Mr. Boyle is concerned about?

Mr. ADAMS. No, sir, and to me, what we have had is a partnership between USDA and FAS and the Soybean Association.

Mr. VOLKMER. Well, I mean members of the Soybean Association sometimes take trips to other countries——

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. For them to purchase soybeans?

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. On those trips, do you go over and meet with the Agriculture Minister or the Trade Minister?

Mr. ADAMS. Yes, sir, but I would assume that they would know we cannot speak for the U.S. Government, that we cannot negotiate for them.

I mean, to me it would be foolish for them to negotiate somebody who cannot cut a deal. And we obviously cannot cut a deal.

Now we do listen. And what we hear we come back and report to FAS, USDA, and USTA, and whatever action they think is appropriate they take.

Mr. VOLKMER. Would you describe these meetings more as discussions or just your listening to them?

Mr. ADAMS. Discussions with primarily listening to them and trying to—but, for example, we would—Dr. Bate and I were just recently in the Soviet Union and without fail we met with government officials over there trying to identify ways we could sell more soybeans.

I do not know how you differentiate in that because—but we cannot take any action to culminate any negotiations on behalf of the U.S. Government.

And, for us to even do so, or even pretend we could, I think would be totally preposterous and I do not think anybody would take any action on that basis.

Mr. VOLKMER. Mr. Boyle, is that the type of thing that you are concerned about?

Mr. BOYLE. Not within the context of the American Soybean Association paying for those trips, organizing those trips, participating in those types of meetings.

I am sure that they have been helpful in the past and I would assume that ASA, as a trade association, would continue to have those types of contacts with foreign consumers, buyers, as well as government officials.

Under the cooperator agreement with FAS, they do it in a cooperative way with the Department of Agriculture.

But that is a private undertaking, it is a trade association. It is an activity that a number of agricultural trade associations——

Mr. VOLKMER. You are concerned with this board and the boards personnel actually doing that? Is that your concern?

Mr. BOYLE. Yes, indeed. The key reason for that, Mr. Volkmer, is that the board will not be a private sector organization. The board will be an instrumentality of the Department, an extension of the U.S. Government.

And, as such, we have strong reservations about that extension of the Government negotiating trade barriers which should be the proper role and has been, under existing law for the U.S. Trade Representative's Office.

That is the key difference.

Mr. VOLKMER. All right. Mr. Adams, do you understand his problem?

Mr. ADAMS. Yes, sir, and I still do not understand how we negotiate. That is what is frustrating to me. We do not negotiate because we do not have the power to negotiate.

It would be similar to what I told Mr. Grandy, I could not go out on the streets of Washington and buy a car for him.

It is beyond the purview of my powers. And I cannot go out, and I know I cannot, and no one in ASA can go out and negotiate for the U.S. Government.

That is the power of the reserve to the U.S. Government. Now, you know, we listen. We hear information and what have you.

Mr. VOLKMER. Let me, if I may, Mr. Chairman, let me explore something else just a little bit different and see if we can help it arrive.

Mr. Adams, what I would like to know is, and it may take a little time for you to answer but I think it may be helpful for us as we go into this to try and come out with a solution, how do you envision that the ASA will be working and the Soybean Promotion and Research Board will be working?

Let us assume this legislation passes, the Secretary issues the order, and you are now gone, and you are accepting the funds and everything.

How do you envision that these two entities will be working?

Mr. ADAMS. We would have, as you stated earlier, the United Soybean Board, which will be chosen by all farmers from separate States, and they would come together.

And then they would approve budgets. They would have approval, final approval for any checkoff fund budgets that are proposed.

In the meantime, then the Secretary—I understand we have a certain number of days where he could approve or disapprove any activity that they entered into—then they would contract through appropriate parties.

And it would be ASA in this case or maybe if possible, some research that needed to be done. But then, we would have coordinating board between the USB and ASA made up of 10 members from USB, the checkoff board, and 9 from ASA with the chairman being from USB with the voting power on a day-to-day basis, of course, being—residing in USB.

But with the board as a whole, USB having veto power over it all.

These funds then—the checkoff funds will be pulled from other funds that would come in such as FAS funds, such as third party cooperative funds that are out there and other funds for specific projects for research and for market development.

This would be then contracted with ASA to on go with those projects. And, of course, then there would be quite a few subcontracts coming out from the portion too on half the funds.

Mr. VOLKMER. ASA, would you continue to receive funds from each of the State organizations?

Mr. ADAMS. If they chose to——

Mr. VOLKMER. Right now you are operating basically with the voluntary checkoffs; are you not?

Mr. ADAMS. Yes, sir, voluntary checkoffs. In other words, this checkoff would not be on top of other checkoffs.

Mr. VOLKMER. I know that.

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. But I know the division. We have 50 percent going out here to the State.

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. Out of that, would you continue to receive—ASA would continue to receive what you presently receive?

Mr. ADAMS. No, sir. We would have an increased amount. But these funds would not go directly to ASA. They would go to USB.

USB would be the party that would do the contracting. So the checkoff funds do not go to ASA.

Mr. VOLKMER. No, no, you misunderstand the question.

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. All the funds are going to USB?

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. USB takes 50 percent of it and sends it off to the States; correct?

Mr. ADAMS. No, sir, the States retain 50 percent first.

Mr. VOLKMER. Either way. We have 50 percent here and 50 percent here?

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. Now, as of right now, under this system, ASA does not have 1 penny?

Mr. ADAMS. Absolutely, other than other source of funds that we are able to raise such as FAS and T funds and so on.

Mr. VOLKMER. Right, I understand those. Will you be receiving any of those funds either from the State and not from the board directly, how about from the States?

Mr. ADAMS. We may well do it if there were a special project that fell within the parameters of no lobbying and what have you. They could possibly—the State could designate some funds to go into ASA.

But I suspect that it would probably all go through USB.

Mr. VOLKMER. What you are telling me then there would be a difficulty for ASA to continue to do what you have been doing because you basically would not have any budget for it?

Mr. ADAMS. Well, we are going to have an enhanced membership program where we will have additional dollars coming in from membership funds and so on.

Plus, as I said earlier. I suspect that our total budget will grow, yes, sir. ASA's will.

Mr. VOLKMER. Do you understand what I am saying?

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. If we said that you are not permitted, USB, and its board and its personnel are not permitted to have contacts with any foreign official and discuss trade, tariffs, whatever have you——

Mr. ADAMS. Well, we are out of business in the Soviet Union to start with.

Mr. VOLKMER. Which are market access. You cannot discuss market access, the board.

Mr. ADAMS. Yes, sir.

Mr. VOLKMER. That would leave it only to private individuals through ASA to do it, but ASA would not have the ability to do it any longer; is that correct?

Mr. ADAMS. That would be correct because those funds would be tainted, in effect, when they came to us if it was too narrowly drawn there.

Mr. VOLKMER. You could not get funds from the board to do it?

Mr. ADAMS. No, sir, that is right. We could not get funds from the board. Our hands would be tied, in effect.

Mr. VOLKMER. You see the problem, Mr. Boyle?

[No response.]

Mr. VOLKMER. Do you understand? You are asking that ASA continue to do what they have been doing. You have no objection to that?

Mr. BOYLE. No, not at all.

Mr. VOLKMER. But they are not going to be able to do that.

Mr. BOYLE. We are not necessarily sure that is the case. That was a very informative explanation of how the funding would work, but before I respond as to whether or not it would formally preclude them from continuing in a cooperator role, I would like to visit with the Foreign Agricultural Service.

My discussions with them thus far, regarding how the funding would come in to the proposed board and the coordinating committee, does not, based upon their comments, preclude a continuing cooperator relationship between ASA and the Foreign Agricultural Service.

Mr. ADAMS. We would want that relationship between ASA and FAS to continue. Now, as you know, this is a totally separate organization between USB and FAS.

Mr. VOLKMER. What you are saying now, Mr. Adams, is that you envision that the cooperative arrangements that have been existing under FAS would continue with ASA?

Mr. ADAMS. Yes, sir. We would want to continue that.

Mr. VOLKMER. That would continue with ASA.

Mr. ADAMS. Yes, sir. In fact, all these relationships. We just recently received a letter on this from Mr. Yeutter, and if I could quote it—this is addressed to ASA.

> This is just to acknowledge a recent letter summarizing your visit in Europe. Analysis was excellent and I really appreciate it. Just keep providing this kind of input. You get a slightly different perspective on issues and provides a very effective cross check on our strategy.

This is a letter from the Secretary back to us concerning market access questions.

Mr. VOLKMER. I have a letter that the chairman has just submitted to me from Clayton Yeutter to Mr. Bays. Same letter, yes.

Well, maybe we can work this out. I do not know. Would you be adverse, Mr. Adams—I am not going to ask you to answer this because I do not want you to get on the record yet. I want you to think about something.

If we cannot work it out, I do not want to have this bill going through and trying to get through with the administration fighting it, and I do not think you do either.

Mr. ADAMS. No, sir.

Mr. VOLKMER. And yet we want something—because like I said earlier, you are different. You have 50 percent of your product out here—has to go export and you have a little different situation.

You just cannot promote beans for people to eat here in the United States. Basically, I know beef is done different, but pork, and dairy, and everything, the whole promotion effort is to get people to use more of that product right here in the United States.

You are a different situation. What I was thinking about maybe is whether or not we could work something out within the funding mechanism so that ASA—if we cannot work out some language with the administration so that the board does it, whether we could work out some funding mechanisms so that ASA could continue to do those efforts other than the board doing the efforts.

I am not asking you for an answer right now.

Mr. ADAMS. We would be glad to work with you and take a look.

Mr. VOLKMER. I think, as an alternative, to explore, which would mean that the board would basically be what other boards basically are right now, a research and promotion board whether it is here or any place else.

Do you understand what I am saying?

Mr. BOYLE. Yes, sir.

Mr. VOLKMER. Thank you.

Mr. Sarpalius.

Mr. SARPALIUS. Thank you, Mr. Chairman. I am concerned about the percentage that is going to be used for research. And I would just like for you to ease my mind.

Is it possible that some of the research going to the expansion of existing markets will be in direct conflict with other markets such as soybean substitute meat products?

Mr. ADAMS. I think really from my point of view, it is amazing how many farmers on our board, either dairy farmers or beef or pork and what have, and I think that would be one real problem.

The second thing is, from a pure economic point of view, it makes sense to run these products through cattle and hogs and what have you because the utilization rate is poor rather than direct human consumption.

So from the economic point of view, it makes sense for us to continue the type of programs we have had in the past.

And, third, we have always stayed away from any type of meat substitutes and so on because, as again said, it made no sense politically or economically for us to pursue that.

Mr. SARPALIUS. So you had no intention of using any of these moneys to promote soybean meat or any of that type of stuff?

Mr. ADAMS. Here at home, no, sir, we do not. Now there may be some cases in foreign countries where the people are just entirely too poor, to afford meat at that time.

We had an example in Mexico where we have been putting soy meal into tortillas for the children in schools to enhance their diet.

But obviously the country of Mexico, at that time, did not have any—what we would like to do though is graduate them into poultry, and pork, and beef, and so on in agriculture.

Mr. DELANTY. Could I add also that in numerous areas of the country, a soybean producer is also a pork producer, a beef producer, a poultry producer.

And he is not going to be supportive of this bill if he thought that was going to happen too. So I am sure we are not going to do that.

Mr. SARPALIUS. In other words, I have your word that you are not going to be using the research money or any of these extra moneys in that process?

Mr. ADAMS. Sir, it really would not make any sense, No. 1 for us to do it. But I cannot sit here and tell you what some farmers will do 10, 15, 20 years out.

But it just does not make economic sense for the farmers to do that. And politically, I think you would have a real fire storm on the board.

But we also are prohibited from advertising or promoting in conjunction against other products in an active way. In other words, we could not start a campaign, say for example, against butter.

In fact, we are very much in favor, in use of butter because it is sufficient from my point of view.

Mr. SARPALIUS. Do you have any idea what percentage of the funds will be spent to promote soybeans in foreign markets, foreign promotion?

Mr. ADAMS. Again, that would be at the discretion of our farmers, but as I saw and I recall, and do not hold me to these figures, we had a projected budget that the farmers have taken a look at and somewhat in the neighborhood on a national level around 34 or 35 percent up to 38 percent was considered for research.

Traditionally, we have had our major efforts overseas, but I would suggest that we are probably going to have to go back and put effort in to ensure that we do not lose markets here domestically.

So I would assume that we probably have pretty well a 50–50 split on those funds on the left as far as market promotion here domestically as well as overseas.

Mr. SARPALIUS. What control do you have over your local States when they take that first 50 percent off?

Mr. ADAMS. None at all. In other words, they would be bound by State law or Federal law or whatever law was applicable.

They would be bound by—but at the same time, those are farmers on there. So we do not have any control on their action from a national point of view.

But they are still under the same law that we are under.

Mr. DELANTY. It would be possible though to coordinate the State efforts much better than it is being done at the present time because then it would come under one umbrella.

Mr. SARPALIUS. Thank you.

Mr. ADAMS. Again, we would make absolutely sure of it. The checkoff portion is separate from ASA. These are two distinct organizations.

Mr. GLICKMAN. I thank you for your testimony, all of you. I would make just a couple of comments.

One is that I think we may be making much to do about nothing about this problem here on market access. I do not think it is a practical problem.

I would encourage Mr. Boyle, if you have specific legislative solutions, try to get some language to us. I think maybe you are making a little more of a hangup than there really needs to be in terms of how the world operates.

So that would be one comment.

The other comment is that I agree with Mr. Sarpalius on doing research that would effect competing products, but that is a very difficult line to draw because one could arguably say the more soy-

bean meal you eat, the less other protein you eat, which could then conceivably conflict.

Well, that is a perennial problem. There is only so much food one can put in ones stomach and you have to make choices within that limit.

I would hope that we not get into again a sterile approach where we are not going to try to expand the soybean markets and uses for soybeans for fear that it may have some potential impact on some other food supply.

Grant it, your goal is not to squeeze out any other food. I understand that. I also do not want to be fearful about looking.

What are the uses of the soybean and should we not be doing research into all those uses? And you do not want to compete directly, but sometimes the chips have to fall where they may, too.

I am not sure that is the best analogy in agriculture. [Laughter.]

But anyway, I thought you had good testimony today.

Mr. Boyle, we appreciate very much your staying for a little bit.

Thank you, Mr. Delanty for coming.

The last panel is a panel of farm organizations. We apologize for the delay here.

We have Mr. Harold Dodd, president, Illinois Farmers Union, Springfield, IL; Mr. Doyle Rahjes, president, Kansas Farm Bureau, Manhattan, KS; and Mr. David Senter, national director, American Agriculture Movement, Washington, DC, accompanied by Mr. Harvey Joe Sanner, national president, AAM from Des Arc, AR.

We are delighted that you are all here today. And I think what we will do is we will proceed in accordance with how you are listed on the witness list.

So we will start with Mr. Dodd, then we will go to Mr. Rahjes, then we will finish with Mr. Senter.

So, Mr. Dodd, we are delighted to have you here.

STATEMENT OF HAROLD DODD, CHAIRMAN, EXECUTIVE COMMITTEE, NATIONAL FARMERS UNION

Mr. DODD. Thank you very much, Mr. Chairman and members of the committee. I appreciate the opportunity to come here today and let some of our thoughts be known.

I am a farmer from about 18 miles southwest of Springfield where I have lived and have corn and soybean farmed for the last 45 years. My son and I farm about 1,600 acres of corn and soybeans.

I have been president of the Illinois Farmers Union for 16 years and chairman of the executive board of the National Farmers Union for the last 4 years.

I will be very brief today. I am going to speak to four points of which concerns us, and then on the fifth one, spend a little bit more time.

One is we believe very adamantly that there should be no assessments until after a referendum is passed.

We have dealt for years with these back door referendums in school and tax issues. And we think this is very closely akin.

If we are going to have a referendum, let us have a referendum and put the tax on or the assessment on after we hold the referendum.

So we are very enthusiastically in support of that change.

We would like, if there are going to be refund provisions, the refund application should be made available at the first point of sell so it is as easy for you to get your money back as soon as possible instead of making it difficult as possible.

I also want to say that if we are going to hold a referendum, they should be mail-out ballots, and I will give you the last two results of the Illinois referendums that were held.

The corn people had a referendum and they had, in Illinois, in excess of 60,000 votes in response. And the soybean people just decided to go with the traveling across the county to the extension offices.

And in the same potential, they had less than 10,000 votes. And my only concern is that if we are going to mandate a tax for everybody to pay, then I would like to get the opinion of as many as possible.

I think it requires a mail-out ballot to do that. And the only argument that I have heard against that is the fact that it cost money.

In Illinois, we estimate it would cost about $2,500 to send out a mail-out ballot. If you can get volunteers it is no difficulty to do the stuffing and this type of thing.

And $2,500 is a pretty insignificant amount of money to pay to get a widespread opinion on something as important as this issue is.

I am not here to testify against this. I am simply trying to give it some direction so that it would have more widespread support when and if it becomes a reality.

Now the next point that I would like to spend a little money on and that is to draft legislation to absolutely forbid any recipient of these funds from being able to lobby on legislative issues.

Now I know it has been said here many times today that they do not use any money for lobbying. Well, I have been coming to Washington, DC, for 16 years and I can tell you, and I do not particularly want to alienate myself with a lot of friends that I have, I am a card carrying member of the Land of Lincoln Soybean Association.

I have a lot of friends. I have friends in the ASA. But when they try to tell me that they do not lobby, I understand they have three branches of their organization.

But when they get a lot of money from the checkoff, this frees up a lot of money for them to use for lobbying purposes.

I think they ought to be restrained to do what they were organized to do, what they best do, and that is to promote new uses and new markets, and to stay the heck out of the lobby business.

Now I know that I may come across to you, Mr. Chairman, as someone who is setting up here holier than thou and saying that the legislation ought to be left to the general farm organizations.

But I can tell you that there is a tremendous difference between a commodity group and a general farm organization.

First of all, they are very selfishly motivated. They are very narrow in scope. They want to promote their own product at the sacrifice of their neighbors product.

There is nothing wrong with that. But by their own—the way they are put together, they should not be lobbying as a general farm organization does for farm legislation which, by the very nature of us, we have to represent what is good for all of agriculture, not certain segments pitted against the other.

All right, the only part of this thing that I want to read today, and this is because I do not want to misquote it, and this has to do with the commingling of funds.

We have in our State, the Land of Lincoln Soybean Association and we have in our State, the Illinois Soybean Operating Board.

The Illinois Soybean Operating Board is the recipient of the checkoff funds. The Land of Lincoln Soybean Association is not much different than ours. People pay dues to belong to it.

And I quote from the last minutes of the last meeting on May 18, where the two organizations were jointly meeting as they always do every month:

The ISPOB—

That is the Illinois Soybean Program Operating Board—

Budget includes a payment to the Land of Lincoln Soybean Association in the amount of $46,450 for information and education programs carried out by the Land of Lincoln Soybean Association in behalf of the Illinois Soybean Program Operating Board.

If you can figure out a way to separate the sheep from the goats or the wheat from chaff or however you want to word it, I think it is literally impossible.

I am just simply telling you that we need to do something about people who are using our money, then checking it off the farmers.

And then every year for 15 years that I have come here, the one group of people that I can bet on being on the opposite side of the table testifying in opposition to what we want is the American Soybean Association.

And I know that they will tell you that they do not use any checkoff funds, but I want to reassert, it sure frees up a lot of money so they have more money for lobbying.

And they are nice people. And they do great work. But they should stick to what they were organized to do.

Mr. GLICKMAN. Some of my best friends are in the Soybean Association. [Laughter.]

Mr. DODD. All I want them to do is to stick to what they were organized to do and that is get out of the farm lobby business and stick to promoting new uses in new markets.

Thank you for listening.

[The prepared statement of Mr. Dodd appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you for your outspoken comments. I appreciate them.

Mr. Rahjes, it is a pleasure to have you here in Washington. I would say that I had the privilege of visiting the Kansas Farm Bureau's new headquarters last week.

We had an excellent discussion. I was most impressed with your facility as well as with your people.

So we are delighted to have you here, Doyle.

STATEMENT OF DOYLE RAHJES, PRESIDENT, KANSAS FARM BUREAU, AND MEMBER, BOARD OF DIRECTORS, AMERICAN FARM BUREAU FEDERATION

Mr. RAHJES. Thank you, Mr. Chairman. Certainly it is a privilege for me to appear before you today to discuss the American Farm Bureau Federation's position regarding H.R. 2209.

My name is Doyle Rahjes. I am a wheat farmer, I also farm milo, sunflower, hogs, and cattle. I live at Agra, KS.

I am currently serving as the president of Kansas Farm Bureau and as a member of the board of directors of the American Farm Bureau Federation.

The AFBF has for many years, recognized the right of producers to establish and fund programs designed to promote increased research, sales, and consumption of commodities they produce.

As a general farm organization representing producers in 49 States and Puerto Rico, our members produce virtually every commercially produced agricultural commodity.

Because of the diversity of our membership, we feel it is imperative that commodity-specific checkoff programs be structured to provide producer control and safeguards against the misuse of program funds, or engaging in inappropriate activity.

It is important to remember these research and promotional programs have the potential to increase returns to the producers of the commodity.

At the same time, the funds collected from farmers are of significant magnitude both in total and to the individual producer.

We estimate that approximately $500 million is being collected annually to fund programs for a variety of commodity checkoffs in place today.

This is a large amount in the aggregate. On the other hand, an individual's contribution of one-half of 1 percent of the value of his product can amount to 10 percent of his net profit if he is operating at a reasonable profit margin.

And I would say that is at the upper limits of most of our producers today.

The point is that these funds add up to significant sums. And the growers funding these programs need to exercise control over the programs so that the resources collected from farmers are utilized in an effective and efficient manner.

If this producer control is not assured, farmers may come to view the collection of these funds as an imposed tax rather than as a worthwhile contribution to a cooperatively developed, administered, and funded grower effort.

Farm Bureau has developed policy over the years which addresses specific provisions that should be included in a checkoff program in order for us to support its establishment.

These provisions are mainly intended to provide producer control and limit the use of funds to proper activities for checkoff programs.

You certainly can read those in the prepared statement to determine the provisions expressed in our policy.

The soybean checkoff program authorized by H.R. 2209 as it was introduced, failed to comply with some of the criteria outlined in our policy.

AFBF leaders have engaged in extensive discussions with the bill's proponents—the American Soybean Association, State Soybean Grower Organizations, and State Checkoff Boards.

In addition, we have informed congressional sponsors of the bill of our concerns and our sincere desire to resolve the differences.

This effort culminated in negotiations involving the presidents, key leaders, and staff of AFBF and ASA. The result was an agreement covering seven major points. And I am pleased to say that the AFBF board of directors, at its meeting on Monday of this week, June 5, 1989, accepted the recommendation to support this bill provided it is amended to conform with the agreement.

We believe these amendments will bring this program into line with the intent of our policy provisions, while at the same time, permitting the ASA to promote a program that meets the objectives they agreed to when developing this proposal.

There were more than 10 issues discussed in these meetings, but 7 major changes to the bill, which both organizations agreed to support are:

One, the recall provisions. The Secretary would be required to hold a recall referendum if 10 percent of the soybean farmers signed a petition calling for a referendum on the continuation of the program.

Two, mandatory reconfirmation votes or a periodic referenda. Farmers would be given an opportunity once every 5 years to go to the county extension office or the ASCS office or mail in an absentee ballot to request a full reconfirmation referendum. Moreover, the Secretary would be required to call such a referendum if 10 percent of the farmers, as defined in the recall section, request a reconfirmation vote.

Three, refunds and up front referendum. The legislation will provide a refund option to individual producers until the approval of the initial referendum.

Four, influencing legislation. The bill will substitute the language prohibiting the use of checkoff funds to influence legislation with language that is included in the authorizing legislation for the Beef Promotion and Research Act of 1985, which states:

The order shall prohibit any funds collected by the board under the order from being used in any manner for the purpose of influencing governmental action or policy with the exception of recommending amendments to the order.

Five, refers to annual audits. Would require that the USB funds and projects be audited at least annually.

Six, the definition of terms. The terms "promotion, research, consumer information, and industry information" would be amended.

I believe those have already been discussed.

Seven, double assessment under soybean loan. The legislation and marketing order will establish a mechanism of collection on soybeans under CCC loan whereby a second checkoff assessment will not be collected when the product is marketed.

I am extremely pleased to report that you, Mr. Chairman, have indicated your willingness to introduce these amendments in the markup.

AFBF strongly supports their adoption. And, Mr. Glickman, I thank you for you willingness to accommodate our concerns and I commend the manner in which you have facilitated the process of developing improvements in the original proposal.

We also appreciate the accommodating and cooperative spirit which we have found with ASA, making it a pleasure to work with the ASA on this matter.

With the changes outlined above, Farm Bureau will support H.R. 2209.

This amended legislation will provide producer control, will safeguard against inappropriate activities, and will provide an opportunity for the establishment of a program that will benefit soybean producers and permit them to increase the value of their products.

We believe these proposed changes will help instill greater producer confidence, understanding, and support for this program.

Thank you for the opportunity to share our views. I will be glad to respond to any questions.

[The prepared statement of Mr. Rahjes appears at the conclusion of the hearing.]

Mr. GLICKMAN. Thank you very much, Doyle.

Now we will hear from David Senter, national director of the American Agriculture Movement, accompanied by Harvey Joe Sanner.

Pleasure to have you here today.

STATEMENT OF DAVID SENTER, NATIONAL DIRECTOR, AMERICAN AGRICULTURE MOVEMENT, INC., ACCOMPANIED BY HARVEY JOE SANNER, NATIONAL PRESIDENT

Mr. SENTER. Thank you, Mr. Chairman. It is a pleasure to be before the committee, and the American Agriculture Movement appreciates the opportunity to appear and present our views.

The AAM supports commodity checkoff systems in general. We believe that similar programs that exist in other commodities have generally demonstrated their effectiveness.

We are pleased to be on the same panel with Farm Bureau and Farmers Union. And we share many of the same concerns that they do in the initial legislation.

But I would like to ask our national president, Harvey Joe Sanner, who is a soybean farmer from Arkansas, to present our concerns with the proposal.

Mr. SANNER. Thank you, Dave.

Thank you, Mr. Chairman.

Mr. SENTER. Thank you, Harvey.

Mr. SANNER. I think probably our concerns have already been stated pretty well today. We have always felt, as David said in general, we support checkoff programs.

However, we do think producers should always have a refund provision, regardless before or after the referendum. There should be a refund provision where farmers who do not want to participate in the program would not be forced to.

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I think it is pretty evident by the other programs that the support is there. I noticed earlier the gentleman said something like 76 percent of the farmers who were polled were in support of the mandatory checkoff.

Well, I am one of that 24 percent who is not in favor of it. I think that is an indication that if the program is well administered, managed as it should be, it would not be a problem, the lack of producer support.

There is ample support for a program if it is managed as it should be to benefit producers. I think we all remember a few years ago, and it is in our written testimony that we will submit today, Mr. Chairman, of the problems we had with the cotton checkoff.

And it seems to me that it is the best set of checks and balances that we could have would be a refund provision. It worked back then and we think it would work in the future.

I know that we are hearing that this will be a farmer-controlled board. It will be farmer-owned and farmer-operated. And I am a soybean farmer.

That does not necessarily indicate that we are all geniuses. There were mistakes made in the program before that was supposed to be a farmer-run program.

We watched farmer-run programs before. I have seen them many days on the Hill as Mr. Dodd has testified, and what we thought were not in the best interest of agricultural producers

So it seems to me that the proponents of the legislation could still have a good workable program and pull in more support by keeping a refund provision in.

I do not know how it would be administered either, but we have a real problem in AAM with all other segments of agriculture seeming to benefit more from research and promotion than do the producers.

We think all points of sell should be checked off. If I carry my soybeans to an elevator, a bungy elevator at home, when he moves those beans into export market he should also have to pay the same rate of checkoff that I as a producer does.

It could be argued, I suppose, that he would simply lower the price. But I think the symbolic importance of checking off someone other than producers would be most important.

I know there is some concern when you checkoff industry, they would be on the board. Maybe a provision could be in the legislation that would—that recognized that and deal with it.

What we do feel like that other segments should have to support the program.

One thing that concerns me about the money going into research is that foreign producers do not benefit as we have seen in the past.

We have had some land grant university officials in Brazil and Argentina doing projects, maybe not necessarily with the checkoff money, but, however, maybe those checkoff funds funded other projects and freed up money where they could go and benefit foreign producers.

We would want to be very mindful of that, that it would be the American farmer benefiting.

I think it would be well, too, if the major farm organizations had a representative on this board. I think that should be included in the legislation.

David, maybe I should ask you if you had maybe some other comments, AAM concerns that maybe I have missed?

I did not know I was going to be in town at the time this hearing was called and David was scheduled to do it. But I am glad I was here and I appreciate the opportunity to be here today.

So I think I will turn it back to you, Dave, and see if you have got some points maybe we should mention?

Mr. SENTER. Mr. Chairman, I think most of the points have been covered. I might just note that in the checkoff on cattle, it does apply to all points of sale.

If I sold a cow to you, I pay the checkoff, if you sell it elsewhere you would pay the checkoff. And it does apply at all points of sale.

Mr. GLICKMAN. Is that the only other of these programs that does that?

Mr. SENTER. To my knowledge. Now that may also be true on pork. I do know that on cattle that is the case.

Mr. GLICKMAN. I think staff ought to determine that for us. The other referendums, other promotion programs, whether they have just one point of collecting it or whether they collected it at various stages in the proceeding.

And what the difficulty is of doing that.

Mr. SENTER. I might just wrap up by saying that the commodity checkoff program is not going to solve the inherent problems that we have with soybeans, which over the years, has been low prices.

We have got the soybean price out of the proper ratio with the other commodities. And many traditional soybean farmers have shifted to rice, and cotton, and corn, and other programs that had a better program in place so that they could cash-flow their farm.

So we just want to state that the checkoff program here, in our opinion, will not solve all the problems, but we do have to move forward and find new uses for the product.

And we want to work with ASA, other farm organizations, and this committee to try to address these problems so that we can support the legislation and get it through Congress.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Senter appears at the conclusion of the hearing.]

Mr. GLICKMAN. Let me thank you. For example, beef, the coverage is all cattle producers and importers. So beef and pork would be the same way or not?

It is a value added type of situation. I mean, pork is—who the coverage is all producers of pork animals and importers.

I guess one of the things we would have to figure out is whether—some of the meat products have a value added implication to them.

I do not know if we have that in the soybean business. Livestock, it is each point of live sale and there is some sort of formula on it.

Mr. SENTER. Mr. Chairman, I would just like to make one closing remark. A lot of the research such as increasing the use for soybean ink and a lot of these other products, they are processed prod-

ucts and there will be many people that will benefit throughout the system beyond producers.

So you do not go to the grocery store and buy a sack of soybeans. So you are promoting and trying to increase the usage of products for the most part, will be processed in some manner before they sell.

So it is different than meat or milk and the other checkoffs that are in place. But this is why we believe that more people should share in paying the promotion and research of the product.

And it could lead to a lower amount on producers. Because when more points a seller added, it would take less of a checkoff to adequately fund the program.

Mr. GLICKMAN. If possible, James Lee can you respond to this issue?

Mr. ADAMS. Yes, sir. We looked very hard at this. In fact, we went as far as even looking at checking off on the Board of Trade and everybody is pretty well connected to it.

The farmers finally came to the conclusion that we would have to give somewhat equitable representation to everyone in relation to the volume that they had on the chain going through.

And if that was the case, then, in effect, the farmers control would be diluted if not removed completely. So the farmers that were on this committee said that what they wanted to do was to make sure that the farmers themselves controlled it, not the exporters, not the elevators, and not maybe people on the Board of Trade.

So we backed away from going to the other points of sell and said OK, let us assess we farmers and let us make sure that we farmers are in control of it.

I can sympathize with our friends in the American Agriculture Movement in this, and we struggled long and hard on trying to devise some act that we could do it in to ensure of farmer control.

Mr. GLICKMAN. Let me ask this question about refunds and prior approval. As I understand it, Doyle, you have testified that you pretty much agree that until such time as the referendum occurs and a formal order is issued, that producers should be eligible for refunds?

You believe that there needs to be refunds permitted up until the time the referendum is approved?

Mr. RAHJES. Yes, and we have indicated that to ASA and worked with ASA on that point. We certainly do agree with that relaxed procedure. And it should be expedited to the point where producers could get refunds as quickly as possible. We agree with that.

Mr. GLICKMAN. And once the referendum is approved, then there would then be no refunds?

Mr. RAHJES. No refunds after the initial referendum, then move to the periodic referenda and those automatic procedures which will take place.

Mr. GLICKMAN. Automatic procedures. And, David, what you are saying is you would prefer refund procedure even after that?

Mr. SANNER. Yes, we would. We think the refund established that. We could probably live with it the other way, but if we had our wants, we want to see the refund stay in place.

Mr. GLICKMAN. David.

Mr. SENTER. Mr. Chairman, provided there is a mandatory referendum that occurs every 4 or 5 years or at some point beyond that initial referendum, that would solve a lot of our problems of saying with the referendum the refund would have to occur beyond the first vote.

Because we just want producers to have the opportunity, occasionally, to maintain a check and balance on whether they think the program they are funding is operating and doing what it was set out to do.

And if there is, set forth in the law, every 5 years or so often, it has to be reauthorized, well then that would solve some of our problems beyond the initial——

Mr. GLICKMAN. What we have now is, is that if 10 percent seek a referendum, there will be a referendum. Does that meet your test?

Mr. SENTER. We would still like to see, put in the law, for producers to have an opportunity through mail ballot to vote every 5 years or somewhat.

Mr. GLICKMAN. So you would like to see an automatic referendum?

Mr. SENTER. Yes.

Mr. GLICKMAN. Mr. Dodd, is shaking his head yes on that.

Mr. DODD. Yes. In other words, Mr. Chairman, just sunset. Now we have bill after bill that you pass and it sunsets in 5 years and that does not mean it is going to end.

Mr. GLICKMAN. Right.

Mr. DODD. But it does mean it has to be reauthorized.

Mr. GLICKMAN. Mr. Rahjes.

Mr. RAHJES. Sir, we need both. First, when we have 10 percent of the producers who want a referendum, then there would be one. The Secretary would be mandated to do that—hold a referendum.

Second, we need the other method of holding a reconfirmation vote if you please, when producers come in every 5 years. They have the opportunity to indicate whether or not a full referendum should be provided.

Mr. GLICKMAN. So what I am trying to figure out, we do have a procedure every 5 years by which there is a formal procedure.

Mr. RAHJES. Yes, that is correct.

Mr. GLICKMAN. It is not just people getting an insurrection together and figuring out a way on how to call a referendum.

I do agree that if we are going to go down the road that you have talked about, there has got to be a formal procedure by which you can come up with a determination of whether you are going to get the 10 percent or not.

Now, is the 10 percent a figure that if, in fact, there are concerns about the program? Is that a reasonably easy threshold to meet, the 10 percent?

Mr. DODD. I think, Mr. Chairman, it is very difficult to get 10 percent of the soybean producers in the Nation to sign for a recall. I think it is very difficult.

Mr. GLICKMAN. Mr. Rahjes.

Mr. DODD. Of course, it is not near as difficult as 30 percent, but then it is——[Laughter.]

Mr. GLICKMAN. You are good at math, Mr. Dodd. I want you to know that. [Laughter.]

Mr. RAHJES. Certainly I would say that the 30 percent from which we have come to 10 percent is valid. I think the 10 percent is not going to happen automatically.

There is going to have to be some sort of a real desire out among the producers to create a referendum based on a 10-percent figure.

So it is not going to be easy, but I think it is possible and is within the realms of reason.

Mr. GLICKMAN. In today's numbers, how many people would 10 percent be? What are we talking about?

Mr. RAHJES. About 45,000 to 50,000, Mr. Chairman.

Mr. GLICKMAN. 45,000 to 50,000. So what happens at this 5-year interval under what you are talking about? How do the producers know that they are eligible to determine whether we want to have a referendum?

Mr. Senter.

Mr. SENTER. Mr. Chairman, we would propose that if you call it sunset or just reauthorizing the program, would be that a ballot would be mailed out to each soybean producer in the United States, and they would be given the opportunity within *X* number of days to vote whether to continue the check off program or whether to terminate it, and return it back to their ASCS office.

And that it would occur this way, so everyone would have an opportunity during the same period of time to voice their pleasure or displeasure.

Mr. GLICKMAN. James Lee, let me ask you this: I guess there is some—I think it can be handled the way you have talked about doing it, but at the end of the 5-year period, is something mailed out to soybean producers that will say the following:

Five years is up. In order to determine whether we have a referendum, 10 percent of the people have to say they want it. Check this box if you want one.

Will that happen?

Mr. ADAMS. We have not really worked the details out. I assume it may not be into law, per se, but we would all have an opportunity to work with that.

But what we are talking about is a well publicized period of time that would be announced to all the farmers, whether mail out or TV or whatever is appropriate, so that they would be allowed to start this process if their problems are concerned with it.

Mr. GLICKMAN. I would think that one could develop a formal procedure and we will have to look at the bill to indicate that that 5-year process has to have some predictable way of communicating with the soybean producer so that it becomes, in a sense, it becomes what you both want, but does not necessarily end it either. But what it says is that everybody will, in fact, get a mailing that will say—it will not say an order to continue the program.

What it will say basically, is in order to stop the program, you have to have a referendum. Ten percent of you have to sign it and here is the ballot or here is the checkoff or whatever you want to call it. And you have to get it back to the central office.

And if 10 percent sign it we will, in fact, have a referendum. And that looks like that is a—it is kind of a middle-ground approach dealing with both situations.

I am not sure that can be done.

Mr. ADAMS. Well, one advantage, and this is the reason in the poll that we were asking the farmers about the full blown referendum.

What they came back and told us was, spend the money on research and market development, not on having a referendum.

But now what we know also is there has to be a safety valve and I would perfectly agree with these gentlemen. Because I will not be very long—I will be back in the field and I will not have any hands-on on this.

And if that thing gets out of hand I want to be able to call a halt to it myself if the situation, so—instead of spending all the money for it, let us have a way that the farmer can have the change.

Mr. GLICKMAN. You see that the reaffirmation periodically is not just a way to stop the program. It is really a way to keep the program going more effectively.

That is the way you would want to look at it.

Yes, Doyle.

Mr. RAHJES. I think it is very important that we emphasize there are two measures. First of all, is the 10 percent, at any time, the producers sign a petition they can bring this thing to a referendum and the Secretary is——

Mr. GLICKMAN. At any time?

Mr. RAHJES. At any time. And the Secretary is required to do it.

Then, second, as what you have just been talking about and that this actually gives the farmers, the producers, the opportunity, every 5 years, to indicate things are not going too well, maybe we better take a vote.

Or things are going well, we are going to stay home. We are not even going to go in and ask for a referendum to take place.

It seems as though that those two, working together, first the opportunity to bring one immediately, and then every 5 years, certainly has its checks and balances.

Mr. GLICKMAN. I think one thing you may want to do on that second part is put some language in the statute that provides some burden or obligation on the ASCS to, in fact, properly notify people at the end of the 5-year period so that there is an obligation on the Government's part as opposed to just say, "Well, these guys are going to know about it and they are going to read about it in the ASA magazine," or something like that.

That ought to be no big deal and something that I think can be done.

Mr. RAHJES. Mr. Chairman.

Mr. GLICKMAN. Yes.

Mr. RAHJES. If I may, we certainly would agree with that. However, to publicize it well I would say that not always does the Government get things publicized well.

Mr. GLICKMAN. Or sometimes we get the wrong things publicized well. [Laughter.]

Mr. RAHJES. I think our concern would be that it would be well publicized and that would mean much more broadly than ASA or much more broadly than ASCS.

Mr. GLICKMAN. Right. I just think from our prospective, we do not have any control over anybody except the ASCS offices.

Now, Mr. Dodd, let me just ask you this question. I detected a little bit of cynicism from you on the American Soybean Association's lobbying activities, and your friend, Mr. James Lee Adams is sitting very close to you. Right on your left right now. [Laughter.]

James Lee, how would you respond to Mr. Dodd's concerns about the fact that OK, this frees you up to do lobbying because you will not have to spend this money on promotion because it is going to come out of the farmers pocket.

Then you come up here and maybe work on legislation which is not in the interest of general farm policy.

I do not know if I paraphrased it or not.

Mr. ADAMS. Yes, sir, I can understand his concerns. I would say really, to me, this bill alleviates his concerns, Because right now, I am constrained by State law in Georgia as to what I can do.

And Mr. Delanty is constrained by Iowa law. And we will now be constrained by Federal law. So it is going to be a law on top of a law if that—and so I have got a heck of a lot more exposure if I misbehave.

We also want and insist on an audit, outside audit, both by the Government and also independent people every year to make sure that our skirts are clean.

And we also realize that we are going to be under much greater scrutiny than we have in the past. We have not done anything in the past, but we are going to be doggone sure—I do not want to go to jail and I do not know if anybody else wants to or pay any fines, particular on this.

Mr. GLICKMAN. Mr. Dodd.

Mr. DODD. If I may, Mr. Chairman, you know, you people tell us all the time that you have three branches to your organization. And that the branch that you use for lobbying definitely, none of the money comes from the checkoff.

Now that has been proven to me and I buy that idea. But I also know that it just takes so much money to run an association.

And when you get your funding to run most of your association from the checkoff funds that the farmers pay, then this has to, just logically—it frees up a lot of money that you otherwise would not have to do this lobbying.

What about the times when you call a meeting in Washington, DC, and call all of your people in here who are on the expenses of the checkoff funds, and hold a week-long meeting when you have a day and a half meeting and spend the other 4 days going over here and calling on the—and if that is not lobbying, then explain to me what that is?

Mr. ADAMS. Well, on our annual meeting in March, we really come up on the Hill 1 day out of the 5 or 6 or 7 days. I guess it is probably a flip-flop on that.

But at the same time, we know we have to be circumspect. We have to keep this separate. And we would invite you to take a look and your organization.

We would be glad to supply you any of our books and what have you. And we want your input. We are going to stay clean on this. We have to and we know it.

I really think what we are going to do is put in a position where we are under greater scrutiny and we have got more force of law.

Not that we have done anything in the past, but we are going to make absolutely sure, we are already making sure, we are going to have to increase our membership because that is where the lobbying funds will come from.

And we have to stay clean.

Mr. GLICKMAN. Well, I would say this: Mr. Dodd, I would like to tell you that the American Soybean Association has so much power and so much prowess that Members of Congress shudder every time they come in their office.

But that is just not true. Not that they are not effective, but they do a good job for their members. If, in fact, the implication is they will be able to take this money and just do more lobbying of what they do, and they do a good job, I do not think there is necessarily anything to fear about other farm organizations being squeezed out.

Now, your first concern, however, is a legitimate concern. And that is that we do not want funds directly or indirectly used that come from farmers pockets, on a checkoff program, being used for things that were not suggested under this bill.

Which means we want those funds used for promotion, and new uses, and research, and selling the product, and not indirectly used for lobbying.

And I agree with that. We will make that fundamentally clear in the committee report. And also what we will do, as Doyle Rahjes talked about, the annual audits.

Is we will make sure, and this has not been done very effectively, that there will be appropriate, effective, congressional oversight over checkoff programs.

Because I do not think that has probably been done very well before. And that means an annual oversight process, overall checkoff programs.

How are these working? Are they being done very effectively?

Mr. Senter had his hand up.

Mr. SENTER. Mr. Chairman, one way to kind of get out this problem and concern that many of our general organizations have is, out of this large board that is going to be established, if each one of us is allowed to nominate and put forward a person to sit on that board, because we all have soybean farmers who are members of organizations, then we will be accessed to the contracts, and how the money is spent, and the research projects that are contracted for.

And I think it would lay to rest this concern that we are talking about whether, in fact, checkoff funds are helping with the lobbying against some of our proposals.

And when you look at the makeup of the board, in no way would this stack the deck. It would just be a very small number of the board members.

But that would be a way to answer some of our concerns and help keep a check and balance on the program that it is a truly honest program.

Because all of us, when we deal with our membership, are going to benefit every time we go back 5 years and look at the program again.

If we are saying good things about it, well then that is going to help keep the program in place. If we are all jointly fighting the program, well then it is going to cause problems.

Mr. GLICKMAN. Mr. Dodd.

Mr. DODD. I would just like to just sort of reiterate my concern about the difference of how and how people—what they are structured like.

First of all, I would like to say is there any way to deal with this commingling of funds that I have indicated here that is happening right now in Illinois?

It is in their budget.

And, second, I believe that we have all kinds of proof. In fact, I can tell you with no exception, and I am not picking on the Soybean Association here, I am just saying commodity groups.

For 8 or 10 years, if it is an issue of wheat that the USDA is concerned about, who do they call on? The National Wheat Growers Association.

The National Farmers Union, and I am not here to blow its horn, but it represents three times as many wheat growers as does the National Wheat Growers Association.

It seems to be the prominent thing to call on the commodity groups. And all I want to point out is that they are very narrow in scope.

And the General Farm Organization just simply must be, by its nature, representative of all of agriculture.

Somebody said many years ago, the way to whip the agricultural power in lobby is to divide and conquer. And I think that is what I am witnessing, the greatest division of power, and testimony, and lobbying that I have ever witnessed.

I think commodity groups have a very well organized and a very good place in our society. But I just do not think it ought to be in lobbying.

I do not think they were ever designed or ever supposed to be in lobbying.

Mr. GLICKMAN. Well, the problem is that the First Amendment of the Constitution of the United States permits anybody to lobby and there is nothing we can do about that.

We do have to make sure, however, that funds that are designated for the purpose of market promotion and sell, are not used in a way contrary with the intent of Congress.

I think your basic point is a good one.

Let me say, in conclusion, I think this has been an excellent panel. And it is our intention to set this bill for a markup a week from today—no, Tuesday.

So if those of you who have specific ideas for amendments, you ought to try to get that to the staff or to the other members.

We will mark this bill up on Tuesday morning, 10 o'clock. I presume members will be back by then because the House is not in session on Monday.

It is my intention to go ahead and begin the markup process, not only with the ideas that were talked about by Farm Bureau and ASA, but some of these other ideas as well.

I do want to make sure we strengthen this reaffirmation process so it is clear that you have to go through some hurdle to make sure that is done.

I also want to look at the issue Mr. Senter raised as well in terms of composition of board to make sure that that is fair.

I think all the witnesses today have been good.

I would close by saying this: That I do think soybeans are—there is an opportunity for soybeans that is immense. I mean it is just incredible.

Potential opportunity there, particularly with this tremendous environmental crisis the United States is going through.

We have been looking for this. We thought maybe we had it with ethanol and there have been some problems there. But maybe the soybeans do provide us a real answer for the producer that we have not been able to see before there.

So I think there is a unique opportunity here that is probably much greater than many other crops because the potential for new uses and for market expansion and development that we may not see with a lot of the other products.

So that is why I think this bill is particularly useful here. We will try to work out as many of the problems as we can.

We thank everybody for coming.

Doyle, from Kansas, we thank you for coming here.

Hearing is adjourned.

[Whereupon, at 12:55 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

CONGRESSMAN ROY DYSON
TESTIMONY BEFORE THE
HOUSE SUBCOMMITTEE ON WHEAT,
SOYBEANS, AND FEED GRAINS
JUNE 8 1989

MR. CHAIRMAN. I AM PLEASED TO TESTIFY THIS MORNING ON BEHALF H.R. 2209, THE SOYBEAN PROMOTION, RESEARCH AND CONSUMER INFORMATION ACT. I WANT TO TAKE THIS OPPORTUNITY TO COMMEND BOTH YOU AND MR. MARLENEE FOR THE EXCELLENT WORK YOU HAVE DONE IN PUTTING TOGETHER THIS IMPORTANT LEGISLATION.

BEFORE I START, LET ME FIRST INTRODUCE THE GENTLEMEN WHO ARE JOINING ME IN SUPPORT OF H.R. 2209. LET ME PRESENT MR. JERRY KENNEDY, EXECUTIVE DIRECTOR OF THE MID-ATLANTIC AND VIRGINIA SOYBEANS ASSOCATION; MR. WILLIAM BRADLEY, JR., TREASURER OF THE MID-ATLANTIC SOYBEAN ASSOCATION; AND MR. HANK SPIES, PRESIDENT OF THE AMERICAN SOYBEAN DEVELOPMENT FOUNDATION.

MR. CHAIRMAN, THE PROSPERITY OF THE SOYBEAN INDUSTRY IS VITALLY IMPORTANT TO THE FARMERS I REPRESENT IN THE 1ST DISTRICT OF MARYLAND. AND TO FARMERS THROUGHOUT THE COUNTRY. IN 1988, MARYLAND'S 3,600 SOYBEAN FARMERS SET A STATE RECORD BY PRODUCING OVER 14.1 MILLION BUSHELS OF SOYBEANS, AT A VALUE OF $108 MILLION. SOYBEANS, FOR THE FIRST TIME EVER, SURPASSED CORN AS THE LEADING CASH CROP IN MARYLAND.

THIS PROSPERITY COULD BE SHORTLIVED IF AMERICA'S SOYBEAN EXPORTS CONTINUE TO DECLINE. EVEN THOUGH THE WORLD MARKET HAS EXPANDED OVER THE LAST DECADE, U.S. SOYBEAN EXPORTS HAVE DECLINED FROM 66% OF THE WORLD MARKET TO BARELY OVER 50%. THE AGGRESSIVE MARKETING TECHNIQUES OF SUCH COUNTRIES AS BRAZIL AND ARGENTINA HAVE PUT AMERICAN SOYBEAN FARMERS ON THE

DEFENSIVE. INDUSTRY EXPERTS INDICATE THAT THESE REDUCED SALES HAVE COST THE U.S. ECONOMY $1.9 BILLION IN INCOME. IN ADDITION, EACH DELTA/SOUTHEASTERN SOYBEAN FARM HAS LOST $16,000 IN POTENTIAL SALES. THIS TRANSLATES INTO A LOSS OF $63.5 MILLION IN REVENUE FOR MARYLAND'S SOYBEAN FARMERS.

MR. CHAIRMAN, THE SOYBEAN FARMERS IN MY DISTRICT, AND THOSE THROUGHOUT THE COUNTRY, REALIZE THEY CANNOT AFFORD TO LOSE ANY GROUND IN AN INCREASINGLY COMPETITIVE WORLD MARKET. THEREFORE, I STRONGLY ENDORSE THEIR PROPOSAL TO ESTABLISH A NATIONAL CHECKOFF SYSTEM. THIS PROGRAM WOULD ALLOW SOYBEAN FARMERS TO RAISE $60 MILLION TO RESEARCH, PROMOTE, AND MARKET SOYBEAN PRODUCTS. IN ADDITION, BY DEVELOPING NEW PRODUCTS THEY WILL BE ABLE TO CREATE BOTH NEW DOMESTIC AND FOREIGN MARKETS.

WHAT SOYBEAN FARMERS ARE ASKING US TO DO IS GIVE THEM THE AUTHORITY TO SET UP A NATIONAL PROGRAM. H.R. 2209 WILL DO JUST THAT. THIS IS NOT UNUSUAL. CONGRESS HAS APPROVED SIMILAR PROGRAMS IN THE PAST FOR THE CATTLEMEN, DAIRYMEN, HOG PRODUCERS, AS WELL AS OTHER FARM SECTORS.

MR. CHAIRMAN, I STRONGLY BELIEVE THAT H.R. 2209, THE SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT, WILL GO ALONG WAY TOWARD MEETING THE NEEDS OF OUR SOYBEAN FARMERS. WE MUST GIVE OUR U.S. SOYBEAN FARMERS A FIGHTING CHANCE AT GAINING A LARGER SHARE OF THE WORLD SOYBEAN MARKET. BUT ONLY BY AUTHORIZING THEM TO CREATE AN ASSESSMENT SYSTEM, WILL THEY BE ABLE TO PAY FOR THE WORK THAT NEEDS TO BE DONE.

ONCE AGAIN, MR. CHAIRMAN, I WANT TO THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU AND THE DISTINGUISHED MEMBERS OF THIS COMMITTEE. WITH YOUR PERMISSION, I WOULD LIKE TO ASK FOR THE GENTLEMEN WITH ME TO SHARE WITH YOU THEIR THOUGHTS ON THIS MEASURE.

ORAL STATEMENT OF BILL BRADLEY
TREASURER
MID-ATLANTIC SOYBEAN ASSOCIATION
on H.R. 2209

"THE SOYBEAN PROMOTION, RESEARCH
& CONSUMER INFORMATION ACT"

before the

SUBCOMMITTEE ON WHEAT, FEED GRAINS AND SOYBEANS
of the
HOUSE COMMITTEE ON AGRICULTURE

JUNE 8, 1989

Thank you for the opportunity to be here today. I'm a full-time soybean farmer from Salisbury, Maryland. It is an honor to join Congressman Dyson in support of H.R. 2209, a bill to establish a nationwide soybean checkoff program.

Congressman Dyson is a friend of soybean farmers in Maryland and a leader for their interests. He understands that farmers want and deserve a good income in return for hard work to produce high quality food for consumers.

The purpose of the nationwide soybean checkoff is to allow farmers to work together to invest for a profitable future. The bill would enable farmers to increase aggressive advertising, export expansion and research for soybeans. If we don't invest for our own future through this "self-help" program, who will do it for us?

As soybean farmers, we want to welcome, not resist change. Agriculture today is changing dramatically ... biogenetic seed breakthroughs are increasingly possible ... new uses for soybeans ... new markets like the Soviet Union opening up... just to name a few. But the global competition is tough. We want to work hard so that WE capture these new opportunities, not our competitors.

As I talk to soybean farmers in Maryland and the Mid-Atlantic area, they tell me they LIKE the idea of a nationwide soybean checkoff. They like the results they've seen from our current statewide checkoff and they want an expanded program.

For example, at the University of Maryland (College Park) and the University of Maryland (Eastern Shore), we've funded research on disease control, variety genetic improvement and ways to cut production costs.

Maryland soybean farmers have promoted the use of soybean oil and other soybean products to potential customers such as the Maryland Food Dealers at state and county fairs.

Mid-Atlantic soybean farmers feel that the checkoff investments they're making show results. And they want to do more. Farmers in my part of the country strongly believe that all U.S. soybean farmers who benefit should do the same.

One aspect about H.R. 2209 that I especially like is that it preserves states rights. The rights of each state soybean checkoff program to conduct promotion and research programs are protected under H.R. 2209.

For example, half the funds collected in each state would remain within the state to meet statewide needs.

Also, current state soybean checkoff farmer boards, created by individual state laws, would continue operating with the same membership.

These state boards are not and under H.R. 2209 would not be affiliated with individual state soybean associations. Membership on these state boards is either appointed by the state Governor or elected by farmers from each state. Members typically include representatives from many diverse organizations.

ASA's President will testify before you shortly on the details of H.R. 2209. Speaking for Mid-Atlantic soybean growers, I strongly urge your support for H.R. 2209.

I appreciate the invitation from Congressman Dyson and Chairman Glickman to be here today.

Thank you.

Statement of J. Patrick Boyle, Administrator
Agricultural Marketing Service
United States Department of Agriculture
before the Subcommittee on Wheat, Soybeans, and Feed Grains
House Committee on Agriculture

June 8, 1989

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to appear before your Committee to present the Department's views on H.R. 2209, the "Soybean Promotion, Research and Consumer Information Act".

The Department has no objection to the enactment of H.R. 2209 if amended to address the technical and policy concerns outlined in the Department's report to the Committee. My testimony today will primarily focus on the policy concerns of the Department. Many of the changes recommended for consideration are designed to facilitate the administration and enforcement of H.R. 2209. We will be glad to work with committee staff to draft appropriate bill and report language to address our concerns.

H.R. 2209, if enacted, would enable producers of soybeans to develop, finance, and carry out a nationally-coordinated program for soybean promotion, research, and consumer information. The program, which would be run by a United Soybean Board composed of producers, is expected to generate about $60 million a year based on an assessment rate of one-half of 1-percent of the net market value of soybeans sold. A portion of such funds would be credited back to qualified state soybean boards, and a portion would be used for domestic and export promotion of soybean products, including market access activities and production research. The bill contains a provision for a delayed referendum, with such referendum to be conducted not earlier than 18 months nor later than 36 months after issuance of the order. Approval of the order in the initial referendum would require a simple majority of those

voting. The Secretary would be required to conduct a suspension or termination referendum on request of 30 percent of eligible producers, with approval required by a majority of producers voting in the referendum. No provision is included for refunds under H.R. 2209.

H.R. 2209 also authorizes the Secretary to deal directly with violators of the Act by assessing civil penalties of not more than $1,000 per violation and issuing cease and desist orders for violations of any order or regulation. This authority would enable the Department to deal with violators through administrative sanctions, subject, of course, to procedural due process. This would expedite the enforcement process, relieve the overburdened Federal court system, and communicate to those covered by the Act the importance of complying with the Act's provisions.

The Department currently oversees national commodity promotion and research programs for beef, cotton, dairy, eggs, honey, pork, potatoes, watermelons, and wool, lamb, and mohair. Authority also exists for the floral and wheat industries as well, but programs are not currently in effect for those commodities. These national promotion programs, which focus on generic promotion and market development for their commodities, devote in excess of $300 million a year to increase public and commercial awareness of their products. The Department has traditionally taken the position that we have no objection to industry self-help initiatives which are designed to help producers improve their position in the marketplace.

U.S. soybean production is the largest in the world but, like other agricultural producing industries, it too is feeling the squeeze from its global competitors.

H.R. 2209 will enable the soybean industry to increase its market potential through a variety of domestic and foreign market development activities. These activities would likely include:

— advertising, through television and print media, to increase consumer and commercial awareness of the uses and benefits of soybean products;

— research on the nutritional components and attributes of soybean products, the development of new food and non-food uses for soybeans, as well as the development of production/management systems to enable producers to reduce costs and increase profit margins;

— foreign market development programs to maintain, develop and expand markets for U.S. soybeans and soybean products; and

— taking steps to obtain removal of trade barriers and improve market access activities.

Departmental Oversight of Commodity Promotion and Research Activities

The Department plays an active role in the oversight of federally-sanctioned commodity promotion and research programs to assure that they are administered by the boards in accordance with the authorizing legislation and the order. Annual budgets and workplans of the board are approved by the Secretary, and Department staff is in regular attendance of meetings of the boards. This ongoing and active oversight helps assure that producer funds are expended for the purposes intended.

Department Recommendations

To facilitate the administration and enforcement of H.R. 2209, the Department recommends a number of changes to conform the bill to Departmental

policy. Minor technical changes are addressed separately in our report to the Committee.

Refunds and Referendum -- H.R. 2209 makes no provision for refunds or an upfront referendum. In the absence of either of these provisions, the Department strongly believes that provision is needed for refunds of assessments incurred on sales prior to the referendum. Either direct refunds on a monthly basis (as is provided for in most programs of this type) or a provision for escrowing funds to make a one-time refund could be employed. If the escrowing alternative is utilized, the Department believes that a minimum of 10 percent of total assessments collected during the period prior to conduct of the referendum is a reasonable level for escrowing. Direct refund or provision for a one-time refund by escrowing have been previously included in the pork, beef, and egg programs.

Full Reimbursement to Department -- H.R. 2209 provides for reimbursement to the Secretary for costs incurred by the Secretary after an order has been issued and for expenses incurred by the Secretary for conduct of any referendum under the Act, except for salaries of Government employees. The Department believes that it should also be reimbursed for all startup costs incurred prior to the issuance of the order, including salaries of Government employees. Although the Department has previously absorbed salary and some other costs associated with the startup of these programs, the growing number of these types of programs requires us to redirect staff resources from other critical program areas to handle the heavy volume of work associated with their implementation. We can no longer continue to absorb these costs. We believe such costs should be borne by the affected industries, not by the taxpayers.

Time Constraints -- Section 4(a) requires the Secretary to publish a proposed order for notice and comment not later than 30 days after receipt of such proposal, and to issue such order not later than 120 days following publication of the proposed order. The 120-day timeframe places severe time constraints on our limited staff resources. The Department suggests that a 180-day requirement would be more reasonable and attainable.

Prohibition on Use of Funds — Departmental policy requires that producer assessment funds not be used for purposes of influencing any legislation or any governmental action, except in recommending to the Secretary amendments to the order. The Department feels strongly that the prohibition contained in section 5(n) should be conformed to this standard and should be applicable to the state soybean boards as well. The absence of such provision could result in potential abuse of producer funds.

Administration of Order — Section 5(f) authorizes the United Soybean Board and the Soybean Program Coordinating Committee to use the staff and facilities of estabished national, nonprofit soybean producer-governed organizations to prevent duplication and inefficient use of funds. Such organizations are to be reimbursed for reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee. The Department is strongly opposed to the "institutionalizing" of an established national, non-profit soybean organization for these purposes.

Such a relationship could result in a substantial conflict of interest as the Board is prohibited from engaging in activities to influence legislation, which is one of the primary functions of such a national organization. Therefore, if this provision is adopted, strict safeguards must be established

to provide for an "arms-length" relationship between the Board and such an organization.

Termination and Periodic Reaffirmation Requirement -- Section 6(b) requires 30 percent of eligible producers to petition for the conduct of a referendum to determine termination or suspension of the order. The 30-percent requirement is far too stringent and would make it virtually impossible for producers to legally petition for a termination referendum. The Department feels strongly that this requirement should be changed to 10 percent and that this legislation should include a provision confirming the Secretary's discretionary authority to provide the opportunity for producers on a periodic basis to reaffirm their support in some manner for these programs.

Market Access Activities -- Section 5(e)(2) authorizes the Soybean Program Coordinating Committee to develop plans or projects relating to market access activities.

The bill defines "market access activities" as "activities or actions designed to identify and eliminate barriers to trade or market access restrictions with regard to soybean or soybean products that do not involve actions designed to influence legislation in the United States". This definition would permit a wide range of actions designed to directly influence foreign government policies. It would also authorize the Board to seek to develop and implement plans and projects affecting the United States trade policy and to attempt to influence the policies of Federal agencies (USTR, USDA, State and Commerce, ...).

We do not believe that research and promotion boards, established by Federal statute, and administered by the Secretary of Agriculture should be involved in the type of activities contemplated by this section. Such

activities could substantially conflict with U.S. government policies and actions from both a domestic and foreign policy standpoint. In addition, if adopted, it would set an extremely undesirable precedent with respect to the numerous research and promotion boards administered by the Secretary. The Department, therefore, recommends deletion of any reference to "market access" in its entirety and the deletion of the definition of "market access activities" contained in section 3 of the bill.

State's Rights — Section 10(a) prohibits states from conducting a referendum relating to the continuation or termination of qualified state soybean boards during the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted under section 6(a). This appears to be a serious intrusion into the authority for state programs and we question the need for such a provision. We encourage the Committee to closely examine this issue.

Estimated startup costs to be reimbursed to the Department for promulgation of the order would amount to about $150,000. Annual costs thereafter for administration and oversight activities would approximate $200,000. Costs for conduct of the referendum are estimated to be $190,000, excluding Government salaries.

Mr. Chairman, the Department looks forward to working with the Committee and industry representatives to develop a viable, workable, producer-financed program to enable the soybean industry to advance its position in the marketplace.

This concludes my statement. My associates and I will be glad to respond to any questions the Committee may have.

STATEMENT OF JAMES LEE ADAMS, PRESIDENT AMERICAN SOYBEAN ASSOCIATION

on H.R. 2209 "THE SOYBEAN PROMOTION, RESEARCH & CONSUMER INFORMATION ACT"

before the SUBCOMMITTEE ON WHEAT, FEED GRAINS AND SOYBEANS

of the HOUSE COMMITTEE ON AGRICULTURE JUNE 8, 1989

It is an honor to come before you today in support of H.R. 2209, the Soybean Promotion, Research and Consumer Information Act. I am James Lee Adams, from Camilla, Georgia, where I produce soybeans, corn, peanuts, and several other crops. I am president of the American Soybean Association and have been closely involved in developing the proposal before the Subcommittee today.

The American Soybean Association is a national, not-for-profit trade association dedicated to enhancing farmer opportunity for profits through its programs on foreign market development, consumer information, research, education, trade policy and government relations.

ASA is a dues-based voluntary membership organization representing solely the interests of soybean farmers. ASA also conducts foreign market development and research projects on a contractual basis on behalf of the American Soybean Development Foundation (ASDF). ASA also conducts international promotion programs in cooperation with the Foreign Agricultural Service (FAS). (ASDF is a national board of directors elected by farmers in each state to administer checkoff funds sent by individual state checkoff boards to the national level. FAS programs, in which ASA participates, are the Cooperator and Targeted Export Assistance programs.)

This year, some 450,000 U.S. farmers are projected to harvest about 1.9 billion bushels of soybeans on some 60 million acres. Soybeans are the world's major source of vegetable protein and oil. Each 60-pound bushel of soybeans yields 80 percent soybean meal and almost 20 percent soybean oil. Just over half the U.S. soybean crop is exported annually, and half is consumed domestically.

Exports of soybeans, soybean meal and soybean oil, worth $7 billion last year, are vital to farm income. The European Economic Community (EC) has traditionally been our largest

regional market, and until this year, bought half of U.S. soy exports. The Soviet Union has the exciting potential to become our largest customer. Soviet officials indicate they will buy greatly increased volumes of soybeans and soy products. The question is whether it will be U.S. sourced or foreign sourced. Japan buys more soybeans from U.S. farmers than any other single nation in the world. Yet South America has been selling increasing amounts of soybeans to Japan. Other major foreign customers of U.S. soybean farmers include Taiwan, South Korea and Mexico.

Soybeans have been called the "Gold that Grows," and "America's Versatile Miracle." Soybeans dominate the U.S. and world market for vegetable oils and proteins. You and other U.S. consumers use 35 pounds of soybean oil yearly and consume other soybean products daily. These include products such as cooking oils, salad dressings, antibiotics, adhesives, food toppings, mayonnaise, cake mixes, wallboard, pet foods, newspaper inks, and importantly, feed for livestock, poultry and aquaculture. Yet when most people think of soybeans, they think of only soy sauce!

Soybean farmers believe they produce a versatile crop with tremendous future potential. World demand for protein and oil is growing as world population expands. But we have a major problem; we are being out-marketed around the world. We want to work harder to make sure that the world consumes American soybeans, rather than letting foreign competitors grab away our market potential. Soybean farmers want to invest their own funds through a nationwide soybean promotion and research program to match and outpace our competitors. Consider the facts:

1) Two major competitors, Brazil and Argentina, captured the majority of the 15 percent increase in world trade for soybeans and soybean products that occurred over the last ten years. Meanwhile, the U.S. lost market share in a growing market! This means lost profits for U.S. soybean farmers.

Every one point market loss at today's world export volume equals 30 million bushels. If the U.S. had maintained its 1979 market share, the U.S. would be exporting 313 million bushels more. That is nearly equal to the entire 1988 production of soybeans in the Delta and Southeast regions combined, or all the production of Iowa. If this lost production was priced at $6.00 per bushel (a conservative price in today's market) then U.S. farmers have given up almost $1.9 billion in soybean revenue. That is nearly $16,000 per soybean farm in the Delta/Southeast region.

Export expansion funded by a nationwide soybean checkoff would likely include major programs targeted at potential markets, including the Soviet Union, India and China. When I was in the Soviet Union just three months ago I was told

by a senior Soviet government official that they will need the equivalent of half of the U.S. soybean crop (1 billion bushels) within the next decade to sustain demand for livestock and vegetable oil. More conservative projections estimate a 300 million bushel market potential, still a vast amount. We want to expand work to sell U.S. soybeans to the Soviets.

2) Foreign soybean production jumped 52 percent in the last ten years and acreage is up 22 percent. Two major competitors, Brazil and Argentina, will produce more acres of soybeans than the U.S. by the mid-1990's if current trends continue.

3) Soybean meal exports fell 34 percent and soybean oil exports dropped more than 50 percent from the peak of 1979 to 1988 (the last "normal" crop year).

4) Even though U.S. consumers use more soybean oil than all other vegetable oils combined, 85 percent of consumers cannot name soybean oil when asked to name vegetable oils. In a nationwide survey, only 15 percent say they used soybean oil in the last three months. Dieticians list soybean oil sixth in their choice of vegetable oil despite its healthful qualities.

5) Numerous new uses for soybeans need additional research. We need to develop new uses as well as increase demand for existing soybean products. A well known example of a recently-discovered new use is soy ink, which still needs aggressive research to be adapted for printing on glossy paper.

6) South American soybeans are perceived by buyers in Europe and the Soviet Union as having better protein and oil content than U.S. soybeans. We need to reach our customers to promote good quality U.S. soybeans. Work is needed to develop high-oil and high-protein yielding soybean varieties to match specific customer needs.

7) U.S. soybean productivity has not kept pace with the competition. For example, national average soybean yields have been virtually stagnant for the past decade as foreign production continues to expand. Yields are especially low in the Southern region, which has the potential to boost yields considerably.

Site-specific research is needed to develop improved soybean varieties and production practices to increase soybean productivity and profit per acre. Each bushel increase in per acre yield adds $4.00 per acre in profit at today's national average price and cost of production.

8) Foreign producers have checkoffs which challenge our ability to aggressively promote U.S. soybeans. For example,

South American farmers have a two percent checkoff for marketing, education and research. Palm oil producers have a checkoff equal to 7.7 cents per bushel.

Soybean farmers are doing the best they can to overcome these problems with limited resources under 26 individual state checkoff programs. It is a patchwork of state-by-state checkoffs. In addition, four states representing 18 percent of national production have no checkoff at all, yet they benefit from the investment of the rest. That is not fair! We need a nationwide, "self-help" program to take action to regain lost markets and capture new opportunities for American soybean farmers.

A year ago, soybean farmers started working to formulate a proposal to bring before Congress to establish a nationwide soybean promotion and research program. A farmer committee representing all soybean-producing regions studied other existing national commodity checkoff programs. Farmers developed the proposal you have today, after over a hundred hours of committee meetings, listening sessions with state farmer soybean boards, attitude interviews with over 3,400 soybean farmers and numerous revisions. It was affirmed during a special meeting of ASA's Voting Delegate Body on March 3, 1989 where 272 farmers representing all soybean-producing regions voted to move forward on a united front (Special Resolution is attachment A). It is a program that was developed by farmers for farmers who want and support it.

Soybean farmers told us to remember several very important key principles in developing the proposal. They are included in H.R. 2209:

- Funds Would be Invested to Protect and Boost Soybean Profits: Funds would be used for soybean promotion and research of new uses for soybeans, expand export markets, expand domestic markets and research to cut production costs.

- Fair: Everyone who benefits invests. Everyone invests at the same rate of one half of one percent (0.005) of the net sales proceeds after any discounts and adjustments for regional discounts. That's equal to only 50 cents on every $100 in soybean sales.

- Farmer-run: Farmers at both state and national levels would make decisions. State checkoff boards would continue to be organized as they are now under individual state law. A national United Soybean Board of soybean farmers would decide how to use nationwide checkoff funds. USDA would provide final approval and oversight.

- 50 percent of Funds Invested at State Level: This would maintain strong state research and promotion programs. Importantly, current state funding levels are specifically protected in the legislation. Each state soybean checkoff would receive an amount equal to its current funding (average FY84-88, dropping high and low years). After the vote, states would be guaranteed funding no less than one cent per bushel times that state's 5-year average annual production.

- Strictly LIMITS national administrative costs to 5 percent or less: This means at least 95 cents of every dollar would go to promotion and research projects.

- Farmer Referendum: H.R. 2209 gives 18 to 36 months for the program to work (essentially two crop years). Farmers would then vote on the program based on its results. The rate could only be changed subject to farmer referendum. Farmers would be able to also trigger a recall referendum upon petition to the Secretary of Agriculture.

Farmers also told us these key concepts were very important in four national independent farmer attitude surveys. Phone interviews with 3,400 farmers randomly selected from all soybean producing states in November and December, 1988, and January and April, 1989. Over 90 percent of those surveyed were NOT members of ASA. The results were:

- 75 percent favor a nationwide soybean promotion and research program at the rate of one half of one percent of the net sales proceeds.

- 89 percent say they want it farmer-run.

- 79 percent want a maximum 5 percent administrative cap.

- 76 percent want no refunds.

- 71 percent want ASA to be the contractor eligible to implement and manage the national funds from the checkoff.

- 71 percent want states to keep 50 percent of the funds for in-state programs.

Farmers polled told us that the five top problems the nationwide soybean promotion and research program should address are:

(1) expanding exports in countries like the Soviet Union, India and China
(2) promoting new uses
(3) expanding domestic markets
(4) protecting markets by promoting healthful soybean

oil
(5) research to cut farmer's production costs

They outlined an aggressive program for us. These farmers are challenging us to be leaders, to create bold programs to solve these compelling problems. We have a versatile crop, but it takes money to invest in needed research and promotion.

Based on the rate formula in H.R. 2209, about $50 million to 60 million would be generated annually. Of this, 50 percent would remain under the control of qualified state soybean promotion and research farmer boards (not state soybean associations) and 50 percent would be under the control of the national program directed by the United Soybean Board, subject to USDA oversight.

While farmers on qualified state soybean boards and the United Soybean Board would develop specific programs in promotion and research, ASA developed a sample list of programs which could be developed to tap market potential and focus needed research. Attached is a list of these sample investment opportunities in domestic marketing, international marketing, soybean research, and state research and promotion (attachment B).

Over the years, soybeans have been a profitable crop for U.S. farmers necessitating minimum government support because of strong exports and open access to foreign markets. But pressures are increasing in the EC and elsewhere to reduce the foreign market access profitable to U.S. soybean farmers. For this reason, H.R. 2209 would authorize the use of funds for activities aimed at developing, maintaining, and expanding foreign market access for soybeans and soybean products. We believe this to be an important, essential element of an effective market promotion program.

Since the U.S. soybean industry depends on export sales for half of its sales, it must have access to foreign markets and is very vulnerable to import barriers. This is of utmost importance for U.S. soybeans, unlike some commodities with national promotion programs in place which do not depend on the export market to the extent as U.S. soybeans. No matter how effective market development programs are, they cannot bring about export sales if the market is closed to imports.

We respect sincerely the role of the U.S. government to negotiate with foreign governments, to seek direct action by foreign governments and to represent our interests in multinational bodies. However, we also believe that there is an important role for the private sector, in cooperation with the U.S. government, to provide technical assistance, and build understanding among allied industries, foreign

officials and customers about the adverse implications of reduced foreign market access.

ASA conducts foreign market development from 11 overseas offices, of which three are co-located with other FAS Cooperators in the U.S. Agricultural Trade Offices. Foreign governments make purchasing decisions or control the importation of agricultural products in over 75 percent of the countries in which we conduct or want to conduct market development programs. This includes countries such as the Soviet Union, China, India and the entire Eastern Bloc. It is essential to develop and maintain contact with foreign government officials of these and other closed-market economies which have tremendous market potential for U.S. soybeans and soybean products. To capture this huge potential, checkoff funds must be allowed for programs which educate foreign government decision-makers about the benefits of using soybeans and allowing market access to imports of U.S. soybean and soy products.

Attached are examples of work done by ASA to combat existing barriers to trade and prevent potential barriers (attachment C).

Conclusion

As soybean farmers, we face serious challenges, even threats, to our future in farming. These are threats from foreign competitors who are taking over our traditional markets and also capturing new growth in world demand. A nationwide soybean checkoff would help build consumer loyalty to soybeans and soybean products in the U.S. and abroad. And importantly, numerous new uses for soybeans await needed research and development.

H.R. 2209 would extend the "self-help" concept endorsed by soybean farmers in 26 individual state programs to the national level. They tell us they like current programs, but that they want to do more promotion and research to aggressively out-compete and out-market the competition. A nationwide soybean promotion and research program would provide valuable investment to achieve these goals.

Soybean farmers have a choice. They can sit back and take what comes their way, or they can take action on their own "self-help" program to build their future, their profits, their livelihoods. A strong soybean price from the marketplace accompanied with reduced production costs will encourage expanded farmer profits and competitiveness, which is preferable to expanded federal support.

If enacted, H.R. 2209 will put a program in place to rebuild and increase profits for U.S. soybean farmers. Importantly, it would be fair, farmer-run, maintain states' rights, cap administrative costs and preserve each farmer's right to

vote his or her future. We ask Congress to give us this opportunity. We look forward to the day when we can begin investing in future soybean profits for ourselves and our children.

ASA looks forward to working with the Subcommittee on H.R. 2209. Thank you for the opportunity to appear before you today. I will be pleased to address any questions you have.

(Attachments follow:)

Attachment A-1

SPECIAL RESOLUTION

Soybean Promotion and Research Campaign (SPARC)

[Adopted at March 3, 1989, Special Meeting of ASA Voting Delegates]

Whereas, U.S. profits from soybean farming are under attack from competitors from South America to Malaysia;
Whereas, there are tremendous opportunities for expanded soybean profits in developing new uses, in developing markets and in existing markets;

Whereas, implementing programs to capture the opportunities require investments of in state, national and international promotion and research programs;

Now, therefore, ASA's Voting Delegates authorize ASA's Officers and the ASA Board of Directors to pursue legislation authorizing a farmer-controlled united soybean checkoff designed to expand U.S. soybean exports; protect and expand domestic soybean markets; develop new or improved uses for soybeans and soybean products; to improve production efficiencies; inform consumers and farmers about soybeans; and use trade policies to provide market access for U.S. soybean and soybean products.

Recognizing that final legislation will be the subject of negotiation with Members of Congress, the ASA Voting Delegates instruct ASA's Board and Officers to develop a united nationwide soybean checkoff with the following objectives:

1. Everyone who benefits invests equally and fairly. This means everyone pays the same rate with no refunds permitted; and that the checkoff is assessed at the first point of sale and paid to state of origin.

2. Maintains strong farmer control of the checkoff through a national checkoff board that provides state representation based on the state's soybean production. Such a program of farmer control should be developed in a structure that minimizes duplication of existing state and national soybean research and promotion programs. Legislation should avoid structural changes in existing state and national checkoff board and will retain the current weighted vote formula.

3. Caps national administrative costs at no more than 5% of projected annual USB receipts.

4. Provides 50% of the net checkoff funds to states to maintain strong state research and promotion programs. State checkoff boards would be assured the state's current funding level until passage of the referendum, and thereafter an amount no less than what would have been generated under the preexisting state checkoff program.

5. Meets congressional checkoff requirements with a minimum of change in existing state and ASA programs, structure and farmer-control.

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Attachment A-2

6. The united checkoff rate cannot be increased or decreased without a vote of soybean farmers in a referendum conducted under the same procedures as applied to the initial referendum. The initial checkoff rate will be ½ of 1% (.005) of net market price.

7. Prohibits using the national's share of checkoff funds for influencing legislation.

8. Provides for a farmer referendum no earlier than 18 months nor later than 36 months after the final order is published in the Federal Register. Legislation provides provision for farmers to petition for a recall referendum.

9. Pending the outcome of a nationwide checkoff vote, all state checkoff programs subject to periodic reconfirmation votes, would have such votes suspended during the period before the national vote and then resume for the remainder of the unexpired period should the nationwide vote be unfavorable.

The ASA Voting Delegates here assembled authorize the designated ASA farmer-leaders the authority to negotiate with Members of Congress to seek a united nationwide soybean checkoff with these basic objectives.

Attachment B-1

INTERNATIONAL MARKETING

[Permits export promotion expansion. Could include new offices in Soviet Union and China and expanded programs. Does not include programs funded through the Foreign Agricultural Service (FAS) contract or the Targeted Export Assistance (TEA) grants.

- Expand Exports to the Soviet Union

  Market potential: 300 million bushels of soybeans

  Program plans: The market opportunity and improved political climate now exists for expanded U.S. soybean and product utilization. To capture this opportunity, ASA must intensify market development activities designed to increase consumption of soybean meal and soy oil. To accomplish this an increased presence and activity level is required leading to the opening of a future Moscow office.

- Boost Sales to China

  Market potential: 350 million bushels of soybeans

  Program plans: The Chinese government has a stated objective of increasing compound feed production from 9 MMT currently to 100 MMT/year by the year 2000. To assure that soybeans are the major protein source, an aggressive market development program must be launched. This two pronged program must first create a domestic demand for soybeans, minimizing China's exports, thus hastening the day that China must begin importing on a constant basis U.S. soybeans and products. An increased technical service staff and expanded activities will be required.

- Traditional Foreign Market Development Activities

  Market potential: 5%/year worldwide demand for soybeans

  Program plans: Feeding trials. Seminars. Technical support. Trade teams to the U.S. ASA's traditional 400 demand-building activities carried out in 84 countries from ASA's 11 foreign offices remain the foundation of your international effort. This long term building of soybean demand has lead to a 4-5% annual growth! To expand on this growth, U.S. soybean farmers must retain our developed markets; however, new markets in less developed countries must be aggressively developed to provide for future market growth.

Attachment B-2

SOYBEAN RESEARCH

[Would include major biogenetic research projects to create new uses for soybeans and to cut farm production costs. Does not include state research programs which could total $10 - $15 million.]

Trimming the cost of producing soybeans is the most direct and quick way to put dollars in U.S. farmers' pockets and to increase profit potential through increased demand in world soybean markets. Many market-driven research areas are currently underfunded and many research projects can't be implemented for farmers because funding isn't available at either the state or national level. And, state and national research funds appear to be declining.

Six key research areas could provide an immediate return to U.S. farmers if they were adequately funded:

- Launch a major campaign to develop new non-feed and non-food uses of soybeans and soybean products. These research efforts are important to expand soybean uses and future soybean markets.
- Implement research to reinforce technical studies showing soybean oil, protein and fiber have superior nutritional qualities. Dietitians, nutritionists, medical specialists and other health leaders will be more likely to recommend soybean products if it is backed with technical research studies.
- Launch a major biotech campaign to engineer soybeans to strengthen tolerance to environmental stress; improve protein and oil composition; reduce need for agricultural chemicals which causes environmental concerns; cuts costs and increase yields.
- Develop research to increase control of soybean pests. Additional research would minimize the economic impact of disease, nematodes and insects which reduce soybean productivity. The research would also develop better pesticides and pesticide application methods and development of soybeans genetically resistant to pests.
- Increase research emphasis to develop and promote comprehensive production/management systems so farmers can cut costs and maximize profits.
- Develop expert systems to aid farmers in crop management. Research would include development and field testing plant growth models; irrigation scheduling aids; least-cost pest control; reducing fixed costs and machinery costs; assistance in meeting state and federal environmental, financial and regulatory requirements.

These are the six national research areas. In addition, we project states will be able invest an additional $20 million for state production and utilization research programs.

Together, funding research at the state and national levels, soybean farmers can reverse the current trends and improve both soybeans profitability and market share.

Attachment B-3

DOMESTIC MARKETING

[Permits National TV Campaign promoting soybeans and soybean products. Does not include state funds used to buy additional commercials on local broadcast stations, magazines or newspapers.]

- Food Area

  Market potential: Expand 100 million bushels by 1999.

  Program plans

  - SoyMark: Used by firms like Procter & Gamble, Lever Brothers, Wesson Food, Odell's Popcorn (movie theaters), Deli Express (microwave popcorn), Eggo Frozen Food, and major bakeries. SoyMark will be promoted in 8,000 major supermarkets with industry coupon support. (SoyMark available June 1, 1989.)
  - Television advertising to support introduction of SoyMark and to build consumer interest and demand for products carrying the SoyMark.
  - Advertising campaign in major consumer magazines to boost the demand for products using the SoyMark. Direct mail to the ag community requesting farmers to distribute coupons promoting SoyMark products.
  - To increase consumer awareness, 6,500 fast food restaurants and 3,500 table top restaurants will be selected for joint promotion where ASA will support printing of menus, table tents, etc. The promotion will be supported by radio advertising in selected markets.
  - Measurement and program evaluation to insure that messages reach right audiences to boost soybean sales.

- Non-Food Area

  Market potential: Expand 200 million bushels by 1999.

  Program plans:

  - Develop new food and non-food uses for soybeans.
  - Support poultry and livestock producers with targeted end-users promotion.
  - Develop and implement programs which will position soy products as nutritional value added products.
  - Develop tools, which volunteers can use in promoting soy ink and dust suppression; such as soy ink fountain pen, air can with soy oil for dust demonstrations, etc. Will include direct mail promoting soy oil for dust suppression.

Attachment B-4

STATE RESEARCH AND PROMOTION

The nationwide Soybean Promotion And Research Checkoff (SPARC) should generate $20 to $30 million of funds for state research and promotion programs. The state boards will be responsible for determining how to invest 50% of the SPARC funds.

While each state research and promotion board will be responsible for making final decisions on how to invest state funds, we expect states to invest in the following types of programs.

Research

- Production Efficiencies ... trying to uncover ways to increase the efficiency and reduce costs associated with growing soybeans. This research will help U.S. farmers be competitive with soybeans grown in South America.
- Disease ... trying to find new varieties or new production methods to reduce diseases like cyst nematodes, sudden death syndrome and others which rob U.S. farmers of millions of dollars in profits. This research will be tailored to the major diseases affecting each state.
- Biotechnology ... farmers will be able to take advantage of this new research tool to build profits through better efficiency, reduced diseases, new varieties ... new uses.
- Better quality ... trying to increase quality characteristics to meet needs of global customers ... protein and oil content, shape and size, etc. Such research could help farmers in a state capture growing food niche markets in Asia and other areas of the world.

Promotion

- Local advertising ... states will be able to use national television, radio and print advertising and run these on stations within the state.
- Local promotion ... states will be able to help reprint menus for restaurants agreeing to use soybean oil and the SoyMark in their restaurants.
- Local promotion ... states will be able to mount major promotion efforts ... in supermarkets ... in grain elevators (use of soybean oil to control dust, reduce explosions and save lives) ... in newspapers/magazines (soybean oil inks).

What's the result?

Expanded sales. Lower production costs. Better quality soybeans. Higher profits.

Attachment C-1

ROLE OF PRIVATE SECTOR TO REDUCE EXISTING BARRIERS TO TRADE AND PREVENT POTENTIAL BARRIERS

ASA has a long history of working with the Foreign Agricultural Service and the Office of the U.S. Trade Representative to combat existing barriers to trade and prevent potential barriers.

Example: EC Fats & Oils Tax

For example, in 1986 and 1987 ASA carried out an aggressive program to assist the U.S. Government (at their request) to prevent adoption by the European Community of a tax on fats and oils. The tax would have doubled the price of soyoil in Europe with the proceeds being used to subsidize import-displacing oilseed production in the EC. At stake was the market for one in five rows of U.S. soybeans.

In cooperation with the U.S. government, ASA helped defeat the tax by educating EC user groups on the tax's implications. We also expressed our concerns with the tax to EC government officials. In every case our activities were carried out with the knowledge, input, and encouragement of officials of the U.S. government. Through our efforts and those of the U.S. Government the tax was defeated.

Example: Prohibition on Sale of Soybean Oil in Greece

Another example of a trade barrier the soybean industry was instrumental in getting removed was in Greece. Prior to 1986 the Greek government forbade the sale of soybean oil. ASA worked with the Greek private sector and government officials in cooperation with our government to encourage removal of the ban. Simultaneously, the Greek government felt pressure upon entering the EC to lift the ban. These forces converged, and the ban was lifted on the sale of soybean oil in Greece.

Afterwards, we implemented a consumer advertising and promotion program for soybean oil with financing from the Targeted Export Assistance (TEA) Program. As a result today soybean oil is supplying 15 percent of the Greek vegetable oil markets. However, getting access to the market was the first step in this process.

These are only two of the foreign barriers facing U.S. soybeans. Recently, ASA submitted a list of currently existing barriers in 23 countries that we estimate, if removed, would result in an additional $855 million in

annual sales of U.S. soybeans and soybean products. That is equivalent to over $2000 per soybean farmer in the U.S.

It is important to systematically address these barriers to soybean export sales in the future much the same way as they have been addressed in the past. Even after getting access to the markets, there is much to do to turn the potential demand into real export sales. No matter how effective market development programs are, they cannot bring about export sales if the market is closed to imports.

NATIONAL FARMERS UNION

Statement of
National Farmers Union
to the
Grains Subcommittee
of the
U.S. House Committee on Agriculture
June 8, 1989
Washington D.C.

Relative to

H.R. 2209

Soybean Promotion, Research and Consumer Information Act

I am Harold Dodd. I am chairman of the Executive Committee of the National Farmers Union and president of the Illinois Farmers Union. I am a soybean grower and my farm is near Laomi, southwest of Springfield.

National Farmers Union believes that producer-financed research, promotion and advertising programs can be useful for a farm commodity under certain conditions.

Such self-financed check-off programs can be justified when:

1. They are needed to encourage and promote consumer loyalty to the commodity or its end products,

2. When there is a potential for market growth and for the development of new uses and products,

3. When the check-off is entirely voluntary --- that is, when the producer can reject the assessment at the first point of sale,

4. When the program is controlled and managed by a producer-elected board,

5. When the program is implemented and becomes operational

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only after approval by a two-thirds majority of producers voting in a national referendum, and

6. When it is clearly indicated that check-off proceeds cannot be used for political or lobbying purposes.

The program contemplated within H.R. 2209, the "Soybean Promotion, Research and Consumer Information Act", can and should be brought within the above parameters.

If the proposed legislation is brought within these guidelines, National Farmers Union believes the program could have merit. However, the ultimate decision would be made by producers of the commodity.

Since the language of H.R. 2209, as introduced, meets the above guidelines only on points "1" and "6," it is clear that substantial revision of the bill should take place.

Farmers Union is ready and willing to work with the committee to achieve such improving amendments, which, in our opinion, would help assure producer approval of a soybean order if it is ultimately proposed by the U.S. Department of Agriculture.

Before evaluating the situation of producers of soybeans, we direct the attention of the subcommittee to the following Exhibits attached to this testimony and ask that they be a part of the hearing record:

* EXHIBIT A --- 1989 National Farmers Union policy statement relative to producer-financed assessment programs for commodity research, promotion and advertising.

* EXHIBIT B --- The extent and prevalence of producer check-offs.

* EXHIBIT C --- Legal background and considerations.

* EXHIBIT D --- Theory and effectiveness of generic advertising.

THE U.S. SOYBEAN OUTLOOK AND SITUATION

The situation of the U.S. soybean producer has deteriorated sharply since the peak year of 1979, when soybean acreage reached a high of 71.4 million acres, the farm value of output reached $14.2 billion and farm exports were valued at $9.1 billion.

In contrast, soybean acreage is now about 61.7 million acres, farm value about $9.1 billion and farm exports about $6.9 billion.

From 1979 to 1987, world trade in soybeans grew by 17%, while the U.S. share of that trade declined. The U.S. share of world soybean trade was 73% in 1979, it dropped to 56% in 1987, and is

projected at 35% for 1988/89.

In earlier years, the U.S. was the principal grower and exporter of soybeans. Now there are major competitors in the soybean industry, which are gaining market share because of cheap land, cheap labor, subsidized credit and state-trading of the products. Some of the subsidized capital has been provided by national governments, some by U.S. superbanks.

While the U.S. acreage has declined sharply, the reduction has been offset by increases elsewhere. This is particularly in Brazil and Argentina, where increased soybean acreage has replaced rainforest land and cropland for domestic food production in order to earn foreign exchange and pay down debts.

The world market is heavily oversupplied with oilseeds and vegetable oils and is likely to continue so for the immediate future.

In the context of an overstocked world market, the U.S. is a "residual supplier" in soybeans. This was acknowledged by Philip Mackie of the USDA Foreign Agricultural Service (FAS) at the annual USDA Outlook Session last November 30.

"Every other country can take what they want of the world market and we can have the rest," Mackie said. "We make the adjustments in the market; initially through changes in stocks, and subsequently, through changes in acreage."

Another economist has speculated that the U.S. may be out of the soybean export business by the year 1995.

These changes in the soybean situation appear to be permanent rather than temporary in nature.

If such assumptions are true, U.S. soybean producers must ask themselves whether a producer-financed research, promotion and advertising program can do much, if anything, to reverse the decline. The magnitude of the collapse may be far beyond what can be repaired by a check-off program.

Soybean growers will also have to consider the extent to which a producer-financed research, promotion and advertising program can increase export market share. The track record of check-off programs on this score is not impressive.

EXPORT SUBSIDIZATION

The federal government has used the P.L. 480 program, the Export Enhancement Program (EEP), and the Temporary Export Assistance Program (TEAP) to maximize exports of grains and other farm commodities.

The subsidization of exports of soybeans, soybean oil and soybean meal has been on a rather modest scale. The U.S. does not intervene as heavily as our competitors in soybean trade penetration.

Whether trade subsidies will continue at the present scale or be reduced will be affected by U.S. budget deficit considerations and by possible prohibition of trade-distorting subsidies in the Uruguay Round of trade talks now underway under the General Agreement on Tariffs and Trade (GATT).

DUPLICATION OF EFFORT

There are currently 26 state soybean check-off programs in operation. Only 3 producing states do not have a soybean check-off.

The 1988 USDA Yearbook of Agriculture has reported that 440,000 soybean growers are already making contributions ranging from a half-cent to 3¢ a bushel to soybean promotion activities.

Since there are about 511,000 growers of soybeans in the nation, producers might ask themselves whether the superimposition of a federal program would be effective.

Eight of the ten leading soybean producing states already have a soybean check-off, although such a plan has been rejected in two major states.

It needs to be noted that some state programs allow check-off funds to be used for lobbying purposes.

OBSERVATIONS ON PROVISIONS OF H.R. 2209

We concur generally with the findings and declaration of policy in Section 2, but observe that most of the potential benefits of a check-off program would be in the development of new markets and uses for soybeans in the domestic market.

Section 3, Definitions:

In paragraph (4) the definition of "consumer" is lacking. The immediate consumers of soybeans tend to be processors, not families.

In paragraph (6)B, we question the legality of defining the "first purchaser" as the Commodity Credit Corporation in any case in which the soybeans are pledged under a price support loan program. Technically, the grower retains title to the commodity under a price support loan, therefore the placing of a commodity under CCC loan cannot be construed as a sale.

Section 3, Definitions: In our view, the Soybean Board should not be authorized (as in paragraph(8)) to engage in "market access activities." To do so would be to allow the Board to engage in foreign policy and political action.

Section 3, Definitions: Paragraph (13) is too broad. It would allow persons with a minimal interest in a crop to vote. The definition should read: The term "producer" means any person actively engaged in the growing of soybeans.

Section 3, Definitions: Paragraph (15) regarding the qualification of State Soybean Boards lacks a prohibition of using check-off funds for lobbying activities.

Section 4, Issuance of orders. In subsection (b)(3), the time element of 120 days seems short for distributing information and

obtaining adequate consideration of producer views.

Section 5, Required Terms in Orders. In subsection (a), relative to the establishment and membership of the United Soybean Board, we propose that the provisions be totally rewritten to provide for the election of the board members by eligible soybean producers, rather than by appointment by the Secretary.

Section 5, subsection(d). We regard the Soybean Program Coordinating Committee, which appears to be intended to act as an executive committee, to be rather unwieldy in size.

Section 5, subsection (g). The power of the Board to enter into contracts and agreements should be a permissive "may," rather than a mandatory "shall."

Section 5, subsection (i). The soybean assessment should not apply to soybeans placed under CCC loan. The assessment should not be levied until the soybeans under CCC loan are redeemed and subsequently sold.

Section 5, subsection (n). The prohibition should be amended to include "promoting the election of candidates for public office."

Section 6, referenda. Subsection (a), the initial referendum should be conducted before the implementation of a soybean order. The vote for approval should be two-thirds of those voting. Subsection (b) additional votes should be conducted every three years. A request for a referendum should be honored by USDA if the request is made by 10% of the growers. Only producers actively engaged in production should be allowed to petition for a referendum or to vote in such a referendum.Subsection (c)(3) should be amended to provide for voting by a mail ballot rather than requiring producers to come to the County Extension Office to vote. In our view, a mail ballot will increase the participation of growers in the referendum.

Section 8, Enforcement, and Section 9, Investigations. These sections should be deleted since, as Farmers Union has proposed, the assessments should be made entirely voluntary.

EXHIBIT A

1989 NATIONAL FARMERS UNION POLICY POSITION

At the 87th annual convention of National Farmers Union in March, 1989, delegates adopted the following plank on check-off programs:

COMMODITY CHECK-OFF PROGRAMS

"We are opposed to mandatory commodity check-offs.

"The Farmers Union will support resarch and promotion programs financed by deductions from proceeeds of sales by producers of agricultural commodities, only if all the following criteria are met:

"a. That disbursement of funds collected is controlled by boards of producers elected by the producers assessed, and the operations of the program and controlled by those producer boards.

"b. Approval is by two thirds of producers voting in a referendum.

"c. Programs being formulated or currently in operation are subject to review in a referendum every three years and subject to review at any time on the call of 10 percent of the producers concerned.

"d. Producers be provided the opportunity to contribute or not at the initial point of collection.

"e. Criminal penalties are provided against funds being used for political or lobbying activities.

"f. Changes in existing check-off programs, including changes in check-off levies and/or administrative and operational changes, be submitted to producers affected and subject to approval by a two-thirds vote.

"g. After a federal check-off is in effect, all review referenda should be financed and conducted by the federal government.

"h. Whenever a commodity check-off is assessed against American producers, we recommend that a double fee be assessed foreign imports of that commodity in either raw or manufactured form.

"We call on the Secretary of Agriculture to utilize his oversight authority to completely review the operations of federally sanctioned commodity check-off programs and issue an independant public report on their effectiveness, including a complete accounting of all funds collected and disbursed. As part of this study, we request theSecretary to hold public hearings in the states to allow producers an opportunity to participate.

EXHIBIT B

EXTENT AND PREVALENCE OF PRODUCER CHECK-OFFS

Today there are 312 federal and state-authorized producer-financed research and promotion programs aimed at enlarging the sales of some 80 farm commodities. An estimated two million farmers (more than 90% of the total) support one or more of these check-off programs.

Producers contribute about $970 million annually to promote their products through legislated asessment programs under special legislation or marketing order programs. Another $30 million is accumulated under voluntary arrangements.

Of the $1 billion total, $440 million is in the beef program, with about $150 million accounted for in the programs operated by the National Dairy Board, the American Dairy Association and 24 state or regional dairy organizations. Of that $150 million total, $72 million was spent on fluid milk, $50 million on cheese and $20 million on milk as a source of calcium.Pork producers spent about $9 million in 1988, principally on promoting fresh pork products.

Most of the food advertising which consumers see regularly is brand advertising which promotes a particular brand owned by a single firm or the name of a particular food chain or store. The food industry spends $9 billion a year in advertising foods available at retail, about $19 billion totally. Advertising accounts for about 4.5% of each dollar spent for food.

Generic is defined as "belonging to a certain general class or group". In farm product advertising, it means promoting the commodity itself, rather than the end-product. It involves selling products which do not have trademarks. The intent of generic advertising campaigns is to increase the aggregate demand for the individual commodity over the long-term.

Producer-financed generic advertising has developed over the decades because food stores exhibit little product loyalty. The stores advertise and sell whatever they have in stock --they care little whether a certain product is natural or an imitation product. Sometimes, profit margins, as on dairy products, are larger on imitation items than on natural food products.

Some of the generic advertising takes place to fight nutritional quackery and to defend the reputation of natural foods which are criticized as harmful to health --- at times, milk, butter and other dairy products, animal fats, chicken eggs, beef and pork.

EXHIBIT C

LEGAL BACKGROUND AND CONSIDERATIONS

Agricultural promotion groups are usually private in nature but perform a semi-public function. Since the groups are often provided for in the statute and they are accorded taxing or assessment powers, numerous legal questions arise.

Typical state enabling legislation recognizes that it is "in the interest of the public welfare that farmers who produce agricultural commodities shall be permitted to act separately or jointly in cooperation with handlers, dealers and processors of such products to promote and stimulate the use, sale and consumption of such commodities."

These research and promotion programs are financed by assessments, commonly called "check-offs," levied on the producer when the products are first marketed. The assessment may be voluntary, it may be mandatory with a refund provision, or as is now the usual case, strictly mandatory.

Most controversies regarding check-offs pertain to :

(1) the procedure for establishment of the programs,
(2) the legality of the tax or assessment,
(3) the unconstitutional delegation of state powers to a private group.
(4) questions as to whether producers will control the promotion board or commission,
(5) to any limitations on what the check-off proceeds may be used for, and finally,
(6) as to whether any producers should be allowed to be free riders.

Although the decisions vary greatly, Federal and state courts have generally allowed check-off programs to operate when the amount of the levy is fixed and where there is some limitation on the conduct and operations of the programs.

State legislated check-off programs were authorized beginning in the early 1930's. Authority for the collection of promotion funds from producers participating in federal market orders on milk, fruits, nuts and vegetables was contained in the Agricultural Marketing Agreement Act of 1937.

The current nationwide dairy check-off program was authorized in the Dairy and Tobacco Adjustment Act of 1983. Pork, beef, honey and watermelon producer groups obtained authority for mandatory assessment legislation in 1984 and 1985. The curent potato program was authorized in the Potato Research and Promotion Act of 1971.

EXHIBIT D

THEORY AND EFFECTIVENESS OF PRODUCER-FINANCED GENERIC ADVERTISING

The value of generic advertising programs seems to differ by commodity and by conditions in a particular commodity.

The dairy program program was strongly approved in the producer referendum and appears to be well-accepted by producers. Citrus fruits are heavily advertised, both generically and in brand promotion. Beef producers heavily approved the check-off program in the last voting.

In several instances at the state level, check-off proposals have been rejected by producers, on some occasions, repeatedly. Opposition has usually centered on the mandatory nature of the assessment andon the lack of farmer control of the program.

Whether a particular program may be successful may depend on:

1. How much potential there is for market growth. That is, is consumption already near the saturation point?
2. Whether the market is dominated by a few major handlers.
3. Whether producers are fairly well united in supporting the program and have well-defined objectives.
4. Whether dissemination of information will help attract consumers.

While studies have been made to determine the acceptance of various generic advertising campaigns, little has been done in research to determine the actual response rate of consumers and to calculate a dollar return on the producer-financed expenditures.

Presented by
Doyle Rahjes, President, Kansas Farm Bureau
and Member of the Board of Directors
American Farm Bureau Federation

June 8, 1989

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the American Farm Bureau Federation's position regarding H.R. 2209, a bill that would establish a national soybean checkoff program for research, promotion and consumer information. My name is Doyle Rahjes and I am a wheat, milo, sunflower, hog and cattle producer from Agra, Kansas. I serve as the President of the Kansas Farm Bureau and am a member of the Board of Directors of the American Farm Bureau Federation (AFBF).

AFBF has for many years recognized the right of producers to establish and fund programs designed to promote increased research, sales and consumption of the commodities they produce. As a general farm organization representing producers in 49 states and Puerto Rico, our members produce virtually every commercially produced agricultural commodity. Because of the diversity of our membership, we feel it is imperative that commodity specific checkoff programs be structured to provide producer control and safeguards against the program's misuse of funds or engaging in inappropriate activity.

It is important to remember these research and promotion programs have the potential to increase returns to the producers of the commodity. At the same time, the funds collected from farmers are of significant magnitude both in total and to the individual producer. We estimate that approximately $500 million is being collected annually to fund programs for a variety of commodity checkoffs in place today. This is a large sum in the aggregate. On the other hand, an individual's contribution of one-half of one percent of the value of his product amounts to 10 percent of his net profit if he is operating at a 5 percent profit margin, as is typical for many farmers. The point is that these funds add up to significant sums. The growers funding these programs need to exercise control over the program so that the resources collected from farmers are utilized in an effective and efficient manner. If this producer control is not assured, farmers may come to view the collection of these funds as an imposed tax rather than as a worthwhile contribution to a cooperatively developed, administered and funded grower effort.

Farm Bureau has developed policy over the years which addresses specific provisions that should be included in a checkoff program in order for us to support its establishment. These provisions are mainly intended to provide producer control and limit the use of funds to proper activities for checkoff programs. Many of the specifics we require were included as provisions of the Agricultural Marketing Agreement Act of 1937 and are therefore grounded in historical legislative precedent. The list of safeguards included in Farm Bureau policy are:

(1) Approval by producer referendum prior to implementation of a program;

(2) Referendum procedures which protect voting rights, provide uniform voting procedures and encourage maximum participation by producers;

(3) Producer control over the program. There should be opportunity for refunds of assessments without undue difficulty. For programs that do not allow a refund, a periodic referendum to determine continuation or termination of the program should be held at intervals not to exceed five years; however, a referendum shall be held at any time upon petition of at least 10 percent of the registered producers in any area covered by the program;

(4) Producer control of the board administering the program; and,

(5) Limitations on the use of funds for promotion, market development and research only. Grower educational programs should be limited to project information and financial statements.

The soybean checkoff program authorized by H.R. 2209 as it was introduced failed to comply with some of the criteria outlined in our policy. AFBF leaders have engaged in extensive discussions with the bill's proponents, the American Soybean Association (ASA), state soybean grower organizations and state checkoff boards. In addition, we have informed congressional sponsors of the bill of our concerns and of our sincere desire to resolve these differences.

This effort culminated in negotiations involving the presidents, key leaders and staff of AFBF and ASA. The result was an agreement covering seven major points. I am pleased to say that the AFBF Board of Directors at its meeting on Monday, June 5, 1989, accepted the recommendation to support this bill provided that it is amended to conform with the agreement. We believe that these amendments will bring this program in line with the intent of our policy provisions while at the same time permitting the ASA to promote a program that meets the objectives that they had agreed to when developing this proposal.

More than ten issue areas were discussed in these meetings, but the seven major changes to the bill which both organizations agreed to support are:

1. RECALL PROVISIONS: The Secretary would be required to hold a recall referendum if 10 percent of the soybean farmers sign a petition calling for a referendum on continuation of the program. In order to assure geographic diversity from those submitting the petition, we agreed that no more than one-fifth (20 percent) of the total number of petitioners could come from any one state.

2. MANDATORY RECONFIRMATION VOTES (PERIODIC REFERENDA): Farmers would be given an opportunity once every five years to go to the county extension office or ASCS office (or mail in an absentee ballot) to require a full reconfirmation referendum. Moreover, the Secretary would be required to call such a referendum if 10 percent of the farmers (as defined in the recall section) request a reconfirmation vote. Suggested schedule: The reconfirmation signup date be established and publicized every fifth year following the initial referendum; and that the Secretary be required to hold a reconfirmation referendum within 12 months (it takes two to four months to prepare a marketing order that provides for the referendum) if 10 percent of the nation's soybean farmers (representing the specified number of states) require such a vote. The order shall prescribe that USDA and the United Soybean Board (USB) publicize the signup period at least 60 days prior to the reconfirmation date every fifth year after the initial vote.

3. REFUNDS AND UPFRONT REFERENDUM: The legislation will provide a refund option to individual producers until the approval of the initial referendum. These refunds would be provided to the producer as soon as possible rather than held in an escrow account. Refunds will be provided within the time frame specified by the appropriate state laws and procedures (an average of 30-45 days).

4. INFLUENCING LEGISLATION: The bill will substitute the language prohibiting the use of checkoff funds to influence legislation with language that is included in the authorizing legislation for the Beef Promotion and Research Act of 1985 which states:

> The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

5. ANNUAL AUDITS: Require that USB funds and projects are audited at least annually.

6. DEFINITION OF TERMS: Terms should be defined as follows:

Promotion: means any action, including paid advertising, technical assistance and trade servicing activities, to enhance the image or desirability of soybeans and soybean products in domestic and foreign markets.

Research: means any type of study to advance the image, desirability, marketability, production, product development, quality, functional or nutritional value of soybeans or soybean products.

Consumer information: means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing and use of soybeans and soybean products. Consumer information will not include information or programs designed to influence public policy.

Industry information: means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans and soybean products. Industry information will not include information or programs designed to influence government policy.

7. DOUBLE ASSESSMENT UNDER SOYBEAN LOAN: The legislation and marketing order will establish a mechanism of collection on soybeans under CCC loan, whereby a second checkoff assessment will not be collected when the product is marketed.

I am extremely pleased to report that you, Mr. Chairman, have agreed to introduce these amendments at the markup. AFBF strongly supports their adoption. Mr. Glickman, I thank you for your willingness to accommodate our concerns, and I commend the manner in which you have facilitated the process of developing improvements to the original proposal. We also appreciate the accommodating and cooperative spirit in which we have been able to work with ASA on this matter.

With the changes outlined above, Farm Bureau will support H.R. 2209. This amended legislation will provide producer control and safeguards against inappropriate activities and provide an opportunity for the establishment of a program that could benefit soybean producers and permit them to increase the value of their products. We believe these proposed changes will help instill greater producer confidence, understanding and support for this program.

Thank you for the opportunity to share our views with you. I will be glad to respond to any questions that you may have.

America Needs Parity!

American Agriculture Movement, Inc.

100 Maryland Ave., N.E., Suite 500A, Box 69, Washington, D.C. 20002
(202) 544-5750

Testimony of
David Senter

National Director
The American Agriculture Movement, Inc.

before the
Subcommittee on Wheat, Feed Grains and Soybeans
House Agriculture Committee

Thursday, June 8,1989

I appreciate the opportunity to appear here today to present the views of the American Agriculture Movement, Inc. on H.R. 2209, a proposal to establish a national soybean check-off system for research and product promotion.

CHECK-OFF PROGRAM NO SUBSTITUTE FOR HIGHER PRICES

I want to stress that no commodity check-off program, regardless of how successful it may be, can substitute for a farm program that provides producers a fair price for their product. We have been losing our share of the world soybean market to foreign producers over the past several years, and that trend will continue unless Congress establishes a program under which farmers can expect to make a profit from growing soybeans. Even the best promotional and research efforts of a well-managed check-off program will not make soybean farming profitable; only higher prices will do that.

PROVISIONS NEEDED IN A CHECK-OFF PROGRAM

Provided certain provisions are incorporated, AAM supports commodity check-off systems in general and a national soybean check-off system in particular. Similar programs which already exist for other commodities have generally demonstrated their effectiveness.

AAM urges this committee to include the following provisions in the proposal for a soybean check-off program:

1. prior approval of producers – Any commodity program approved by Congress should require an affirmative vote of a majority

of producers before being implemented. This producer referendum is a basic step which assures producers have a voice in establishing programs governing the commodities they produce. AAM would oppose any check-off system which does not require producer approval before being implemented.

H.R. 2209 does not currently require the prior approval of producers. We strongly urge the Committee to amend the proposal to include this provision.

2. producer refunds – Any check-off program should provide a simple procedure allowing a producer to obtain a refund of his contribution upon request. This assures that producers who do not wish to participate in the program do not have to share in the cost of the program, and provides a built-in assurance that the program will be well managed.

H.R. 2209 does not contain any producer refund provisions. AAM believes this is the most important failing of this bill.

3. all sellers should be covered – Any commodity check-off system should apply to all sellers of the commodity in its raw, unprocessed condition, at all points of sale. Grain traders, commodity speculators and others who benefit from the check-off program should be required to contribute to the program, along with producers. This is especially appropriate when dealing with a commodity such as soybeans, which is not consumed in its raw form, and which is therefore not subject to increased consumer demand through promotional efforts.

H.R. 2209 provides for the collection of an assesment only from the producers; processors, middlemen, and grain speculators will benefit from the program at least as much as the producers, but they are not required to pay their share of the costs of the program.

VOLUNTARY SYSTEM SERVES AS A SAFEGUARD AGAINST ABUSES

For those on the committee who may be concerned that a voluntary system would not work, I should note that the current cotton check-off program is voluntary, as are most of the state commodity promotional programs. Where the programs can demonstrate their usefulness, most producers choose to participate and do not seek refunds.

On the other hand, when a program gets off-track, and wastes the producers' contributions to the program, the refund provision serves to force better management. The experience several years ago of

Cotton Incorporated, the research and promotion arm of the cotton industry, is instructive on this point.

While Cotton Incorporated has a well run program today, that has not always been the case. Ten years ago it did not enjoy this reputation. Many of you will remember the controversy a decade ago when Duke Wooter ran the program. Charges of exorbitant salaries, wasteful consulting contracts, and other abuses led to Congressional hearings. Those hearings, along with a significant increase in the number of cotton farmers requesting a refund of their check-off money, eventually forced Mr. Wooter's resignation and a change in the way the program was managed.

The ability of farmers to register their disapproval by requesting a return of their money was the crucial factor in cleaning up the program and in providing the well managed program from which all cotton farmers benefit today. That would not have been possible without a refund provision in the program.

Today 75% of the nation's 35,000 cotton producers support the check-off program; only 25% request and receive a refund. That is convincing evidence that a well run voluntary program can and will support itself.

We at AAM know that those who are seeking this soybean check-off program today are well-intentioned, and they seek to establish a program which will be well managed and will benefit the producers. Nonetheless, experience teaches us that some safeguards should be established, and a producer refund provision is the best means to assure that the program is managed responsibly and professionally.

With the inclusion of these three provisions, we at AAM offer our full support to the creation of a soybean check-off program.

# # #

89-313 ENR

CRS Report for Congress

Farm Commodity Promotion Programs

Geoffrey S. Becker
Specialist
Environment and Natural Resources Policy Division

May 15, 1989
(Supersedes Report No. 85-995 ENR)

Congressional Research Service • The Library of Congress

FARM COMMODITY PROMOTION PROGRAMS

SUMMARY

Five agricultural commodity groups--representing lime, mushroom, pecan, soybean and Christmas tree producers--are seeking legislation to create new national generic promotion ("check-off") programs. Congress has approved similar Federal laws for nearly a dozen other farm products, beginning with wool in the 1950s and cotton in 1966.

These programs can be controversial, for a number of reasons. For example:

- To fund promotion, all major producers are required (under threat of penalty) to pay an assessment generally tied to each unit marketed, as a deduction from revenues at time of sale--thus the name *check-off* program;

- Earlier programs were not started unless approved by a majority of producers. Many recent initiatives began, or are proposed to begin, at least on an interim basis, without producers' prior approval through a referendum;

- Unlike earlier check-off activities, many current proposed or operational ones forbid farmers from requesting assessment refunds;

- Research on the impact of selected programs generally has shown that generic advertising can increase consumption, although the rate of increase diminishes as more dollars are spent. However, many questions remain unanswered about these programs' effectiveness, particularly over the long term.

Other policy issues include whether these programs help or harm consumers; whether such advertising simply pits one U.S. commodity group against another in the generally limited domestic market; and how to assure that assessments are not used, either directly or indirectly, for lobbying.

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FARM COMMODITY PROMOTION PROGRAMS

THE ISSUE

Five agricultural commodity groups are seeking legislation to create new national generic promotion ("check-off") programs. Congress has approved similar Federal laws for nearly a dozen other farm products, beginning with wool in the 1950s and cotton in 1966.[1]

Such measures require little if any Federal funding. The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service has limited start-up and oversight responsibilities. Nevertheless, the programs can be controversial. For example:

- To fund promotion, all major producers are required (under threat of penalty) to pay an assessment generally tied to each unit marketed, as a deduction from revenues at time of sale--thus the name *check-off* program;
- Earlier programs were not started unless approved by a majority of producers. Many recent initiatives began, or are proposed to begin, at least on an interim basis, without producers' prior approval through a referendum;
- Unlike earlier check-off activities, many current proposed or operational ones forbid farmers from requesting assessment refunds;
- Many questions remain unanswered about these programs' economic costs and benefits, such as effects on demand.

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[1]The wool program did not serve as a model for subsequent promotion programs, is more closely linked to price support than other efforts, and is not discussed here. This report also focuses on generic promotion programs separately mandated by Federal statute; it does not examine those activities associated with marketing orders for milk and various fruits and vegetables.

WHAT IS GENERIC ADVERTISING?

Most farm commodity promotion takes the form of brand advertising, with one producer or manufacturer pitting his or her name brand against that of others offering the same or a similar product. The intense competition among Kellogg's, General Mills, Quaker Oats , and other cereal manufacturers is an example of brand advertising for processed products. Frank Perdue's commercials for chicken are examples of branded advertising for a less processed farm commodity.

But generic advertising, while still probably no more than 5 percent of the roughly $8 billion spent annually on all food product advertising, is on the rise. The U.S. Department of Agriculture describes generic ads as having no reference to a specific farmer or manufacturer:

- *For most of the agricultural products promoted generically, product differentiation and identification are only possible through labeling. Because producers of a basic agricultural product cannot easily convince consumers to choose one egg or orange over another, they use generic advertising to expand total demand for the product and, hopefully, their own sales as well.*[2]

Generic promotion may:

- Attempt tc convince consumers to choose one type of producer over another--cotton instead of synthetic fibers, or milk instead of carbonated soft drinks, for example;
- Like branded advertising, use television, radio, and other media to reach consumers;
- Seek to expand overseas as well as domestic markets (although only about 10 percent of such spending is targeted to foreign buyers);
- Target processors, retailers, institutional food service buyers, and other middlemen as well as individual consumers;
- Be augmented by research and educational activities, such as product improvement or a survey of consumer buying habits.

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[2]Morrison, Rosanna Mentzer, and Walter J. Armbruster, Generic Advertising of Farm Products, National Food Review, Summer 1983.

GOVERNMENT ROLE

Producers can and have organized voluntary cooperative arrangements. However, such promotion accounts for only about 15 percent of generic efforts.

Since the prototype Florida Citrus Advertising Tax was instituted in 1935, more than 312 promotion programs, covering some 80 farm commodities, have been legislated by States or the Federal Government. More than 90 percent of all U.S. farmers now contribute nearly $450 million annually to these efforts, covering some 80 farm commodities.[3]

Why not rely on voluntary efforts? According to USDA:

- *...this arrangement does not solve the "free rider" problem of other producers gaining benefits without contributing promotion funds...Producer groups generally prefer an arrangement that provides more inclusive and mandatory participation.*[4]

Requests to Congress for mandatory check-off legislation have been prompted by any of at least three factors:

- Consumption of a particular product has declined;
- Voluntary efforts have been ineffective;
- There was a need to coordinate promotional efforts already under way at the State or regional levels.

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[3]Armbruster, Walter J., and Garry Frank. Generic Agricultural Commodity Advertising and Promotion: Program Funding, Structure, and Characteristics. March 1988.

[4]National Food Review, Summer 1983.

HOW EFFECTIVE ARE THE PROGRAMS?

Agricultural economists in recent years have stepped up their research into this question; national seminars to share findings and identify continuing study needs were convened in 1985 and 1988. However, many of the programs simply have not been operating long enough to gather adequate evidence. Studies to date have relied primarily on computer modeling, with little research on the direct or indirect connections between consumer behavior and generic advertising. Effects are difficult to isolate from other factors such as branded ads, product pricing and quality, and consumer income changes.

Nevertheless, econometric studies on advertising of specific dairy (cheese and fluid milk), citrus, and several other products:

> *...indicate a positive relationship between the amount of money invested in generic advertising expenditures and sales of the advertised commodity. The research also indicates that the law of diminishing returns applies. As advertising expenditures increase, sales will increase, but at a decreasing rate. Also, most of the analysis points to some type of advertising carryover effect; that is, advertising today will influence future consumption decisions. However, the response rate differs among products, advertising campaigns, seasons of the year, and geographic markets.*[5]

USDA officials and private agricultural economists agree that much more evaluation research is needed, particularly regarding specific objectives. Moreover, such evaluations and data collection should be an integral part of all generic commodity promotion activities, they believe.

One measure of effectiveness simply may be producer support. When refunds in the wheat order climbed to 40 percent, the promotion board terminated the program. Among other problems cited by the industry: unlike meat and eggs, which are clearly recognizable commodities, wheat is mainly an ingredient in other products--making the design of generic messages far more complex.

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[5]Forker, Olan D., and Ward, Ronald W. Generic Advertising: A Marketing Strategy for Farmer Groups. Published in Marketing U.S. Agriculture, 1988 Yearbook of Agriculture, U.S. Department of Agriculture.

OTHER POLICY QUESTIONS

Producer Referendums. The relatively new milk, beef, and pork programs were operated for about two years before referendums were held. (In each case, producers did vote to continue them.) *Proponents* of delayed referendums say the trial period gives producers experience with the program; *opponents* contend that they are undemocratic and allow for no more than a subjective evaluation of benefits.

Refunds. At least half of all current check-offs have a no-refund policy, which assures stable funding and is consistent with the aim of eliminating the "free rider" problem. However, refunds serve as an ongoing producer referendum; for example, the wheat promotion order was terminated in 1986 after refunds climbed to about 40 percent of total assessments.

Cross-Commodity Impacts. While most check-off money goes for domestic promotion, overall U.S. food demand is generally regarded as limited. Thus, expanding sales of some commodities might come at the expense of others--red meat over poultry, for example. These concerns may be less where dollars are spent on foreign promotions.

Do Consumers Benefit? Generic promotion could conceivably help consumers by providing useful food and nutritional information. However, advertising expenses are a business cost that can increase the price of a product a consumer might have bought anyway.

Advertising vs. Advocacy. Commodity groups cannot use promotion funds for lobbying. However, some critics regard the distinction between selling a product to consumers and promoting it politically to lawmakers as a narrow one, complicated further when some national check-off programs are housed in the same offices as that commodity's national association staff.

Board Composition. Mandatory programs must be carefully designed to assure that all contributing producers benefit equally. Governing bodies, for example, should represent all production areas and all types of producers; advertising should cover both fresh and processed forms if assessments are levied against both.

Other Policy Questions. Other policy questions revolve around: USDA's oversight role; how to treat importers of affected commodities; the relationship between new national programs and existing local and regional groups; how they fit with existing farm price support programs; and whether large and small producers benefit equally.

AUTHORIZED GENERIC PROMOTION PROGRAMS[6]

Beef

Authorization: Beef Promotion and Research Act of 1985 (Subtitle XVI-A of P.L. 99-198; 7 U.S.C. 2901-2911).

Board Composition: Producers and importers based on units of cattle. Current board: 108 cattle producers and 5 importers. Appointed by USDA Secretary from nominations by eligible organizations.

Assessment: $1 per head. Up to 50 cents per head credit for contribution to State promotion program.

Coverage: All cattle producers and importers.

Funds Collected (most recent 12 months): $41.7 million.

Refund Policy: Not permitted, except prior to referendum.

Referendum Provisions: Not held until after 22 months of program operation. Requires a simple majority of producers voting for approval, which occurred May 1988. Under prior Beef Research and Information Act of 1976, producers rejected order in 1977 when a two-thirds majority was required, and again in 1980 when a simple majority was required for approval.

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[6]Unless noted, information for this section is from various USDA materials, including: Agricultural Marketing Service. Research and Promotion Programs Authorized by Individual Statutes (unpublished table), March 1989.

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Cotton

Authorization: Cotton Research and Promotion Act of 1966 (P.L. 89-502; 7 U.S.C. 2101-2118).

Board Composition: At least one representative from each cotton producing State. Current board: 20 producers and one public member. Appointed by USDA Secretary from nominations by eligible organizations.

Assessment: $1 per bale plus 1 percent of bale value.

Coverage: Cotton producers. Proposed legislation expected in May to assess importers.

Funds Collected (most recent 12 months): $39.5 million.

Refund Policy: Permitted. $13.7 million returned last year. Proposed legislation would eliminate refunds.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting.

Dairy

Authorization: Dairy Production Stabilization Act of 1983 (Subtitle I-B of P.L. 98-180; 7 U.S.C. 4501-4513).

Board Composition: 36 milk producers. Appointed by USDA Secretary from nominations by eligible organizations.

Assessment: 15 cents per hundredweight. Credit of up to 10 cents per cwt. for contributions to State program.

Coverage: Dairy farmers.

Funds Collected (most recent 12 months): $77.2 million.

Refund Policy: Not permitted.

Referendum Provisions: Delayed for 18 months from implementation; simple majority required. Producers voted in referendum in August 1985 to continue program.

Eggs

Authorization: Egg Research and Consumer Information Act of 1974 (P.L. 93-428; 7 U.S.C. 2701-2718).

Board Composition: Up to 20 producers and consumers. Current board: 18 producers; no consumers. Appointed by USDA Secretary from nominations by eligible organizations.

Assessment: Up to 10 cents per 30-dozen case; current assessment at 2.5 cents per case.

Coverage: Producers with 3,000 or more laying hens.

Funds Collected (most recent 12 months): $3.7 million.

Refund Policy: P.L. 100-575 eliminated refunds for 18 months as of Jan. 1, 1989; $1.6 million repaid last year.

Referendum Provisions: Under original legislation, program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting. Another referendum is set for mid-1990 to determine if mandatory assessment, no-refund provisions should continue.

Flowers and Plants (Inactive)

Authorization: Floral Research and Consumer Information Act of 1981 (Title XVII of P.L. 97-98; 7 U.S.C. 4301-4319).

Board Composition: Up to 75 producers and importers; appointed by USDA Secretary from nominations by eligible organizations.

Assessment: Authorized at initially 0.5 percent of value of plants sold, rising to maximum of 1.5 percent.

Coverage: All producers and importers with sales over $100,000.

Funds Collected (most recent 12 months): 0.

Refund Policy: Permitted.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting. Program rejected in 1983-84 referendum.

CRS-9

Honey

Authorization: Honey Research, Promotion and Consumer Information Act of 1984 (P.L. 98-590; 7 U.S.C. 4601-4612).

Board Composition: Seven producers, two handlers, two importers, one marketing cooperative officer, one public member. Appointed by USDA Secretary from nominations by State associations.

Assessment: One cent per pound in first year, rising one-half cent per year to maximum 4 cents per pound. Full credit for contributions to State program.

Coverage: Producers and importers of more than 6,000 pounds yearly.

Funds Collected (most recent 12 months): $2.5 million.

Refund Policy: Permitted. $241,000 returned last year.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting.

Pork

Authorization: Pork Promotion, Research, and Consumer Information Act of 1985 (Subtitle XVI-B of P.L. 99-198; 7 U.S.C. 4801-4819).

Board Composition: At least two producers per State plus importers. Current board: 151 producers; five importers. Appointed by USDA Secretary from nominations by State associations.

Assessment: Initially, 0.25 percent of market value, increasing 0.1% annually to maximum of 0.5 percent.

Coverage: All porcine producers and importers.

Funds Collected (most recent 12 months): $26.3 million.

Refund Policy: Not authorized except prior to referendum.

Referendum Provisions: Not held until 24-30 months of operation; simple majority of those voting required. Approved September 1988.

Potatoes

Authorization: Potato Research and Promotion Act of 1971 (Title III of P.L. 91-670; 7 U.S.C. 2611-2627).

Board Composition: Fluctuates based on output; currently 91 producers; consumers eligible but none aboard. Appointed by USDA Secretary from nominations by producers.

Assessment: 0.5 percent of past 10-year average; currently 2 cents per cwt.

Coverage: Producers with five or more acres. Pending bill (S. 836; H.R. 2257) would assess importers.

Funds Collected (most recent 12 months): $5.9 million.

Refund Policy: Permitted; $1.1 million returned last year. Pending legislation would eliminate refunds.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting.

Watermelons

Authorization: Watermelon Research and Promotion Act (Subtitle XVI-C of P.L. 99-198; 7 U.S.C. 4901-4916).

Board Composition: Handlers and producers (28), appointed by USDA Secretary from nominations by producers and handlers; one public member.

Assessment: Plan will assess producers and handlers each at up to 2 cents per hundredweight.

Coverage: Handlers and producers with five or more acres.

Funds Collected (most recent 12 months): Not yet implemented.

Refund Policy: Permitted.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers and handlers voting, or by a majority if their production equals two-thirds of output of those voting. Plan was approved February 1989.

Wheat (Inactive)

Authorization: Wheat and Wheat Foods Research and Nutrition Education Act of 1977 (P.L. 95-113; 7 U.S.C. 3401-3417). Program ended in 1986.

Board Composition: Five each of producers, processors, manufacturers, and consumers. Appointed by Secretary from nominations by eligible groups.

Assessment: Up to 5 cents per hundred pounds of flour.

Coverage: End producer manufacturers; exemptions for retail bakers, hotels, restaurants, institutions where manufacture is for on-premise consumption, buyers of less than 2,000 hundredweight of processed wheat, and certain exempt end-products such as frozen dinners.

Funds Collected (FY1986): $1.5 million.

Refund Policy: Permitted.

Referendum Provisions: Program initiated by referendum with approval of at least two-thirds majority of producers voting, or by a majority if their production equals two-thirds of output of those voting. Board overwhelmingly agreed to terminate program on November 1, 1986.

PROPOSED GENERIC PROMOTION PROGRAMS[7]

Christmas Trees

Legislation: Naticnal Christmas Tree Association is expected to submit draft legislation shortly. Following are tentative provisions.

Board Composition: Twelve members consisting of producers, producer-handlers, and one importer.

Assessment: One percent of the average wholesale value for each class of tree in first year; can be increased by 0.2 percent annually up to 1.8 percent maximum. Expected to generate $4 million annually.

Coverage: Producers and importers.

Refund Policy: Not permitted.

Referendum Provisions: Producer referendum to be required before implementation; referendum every 6 years on whether to continue.

Limes

Legislation: Fresh Lime Research, Promotion and Consumer Information Act (H.R. 1776).

Board Composition: Seven producers, three importers, one public member. Appointed by USDA Secretary from nominations by producers and importers.

Assessment: One cent per pound of fresh limes. Could generate $5-7 million annually.

Coverage: Producers, producer-handlers and importers; exemptions for intrastate shipments and producers or importers of less than 35,000 pounds.

Refund Policy: Not permitted.

Referendum Provisions: Delayed; to occur no later than 2 years after implementation of program. Approval by at least a majority of those voting.

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[7]Legislation introduced or likely to be introduced as of May 15, 1989. Sources: U.S. Department of Agriculture, Agricultural Marketing Service, Free-Standing Research and Promotion Legislation, unpublished and undated fact sheet; also, various bills and Congressional Records.

Mushrooms

Legislation: Fresh Mushroom Promotion, Research and Consumer Education Act (H.R. 2187; S. 918).

Board Composition: Four to nine, composed of producers and importers. Appointed by USDA Secretary from nominations by producers and importers.

Assessment: First year, one-half cent per pound of fresh mushrooms; second year, 1 cent per pound; maximum, 2 cents per pound. Could generate $4-5 million annually.

Coverage: Fresh mushroom producers and importers. Exemptions for those with less than 500,000 pounds per year.

Refund Policy: Not permitted.

Referendum Provisions: Requires prior producer-importer referendum; approval by at least a majority of voters.

Pecans

Authorization: Pecan Promotion and Research Act of 1989 (S. 962).

Board Composition: Fifteen members, consisting of eight growers, four shellers, one handler, one importer, one public representative (and, at board's option, one non-voting foreign country representative). Board appointed by USDA Secretary from nominations by eligible organizations.

Assessment: One-half cent per pound (in shell); permitted to increase annually up to a two cent maximum.

Coverage: Producers & importers.

Refund Policy: Not permitted.

Referendum Provisions: Must be held not later than 24 months after program implementation.

Soybeans

Legislation: Soybean Promotion, Research, and Consumer Information Act (H.R. 2209, S.919).

Board Composition: Nineteen members, based on geography and soybean production. Appointed by USDA Secretary based on nominations by State or other eligible soybean boards.

Assessment: At 0.5 percent of net market price of soybeans sold by producers; credit, for up to half amount due, awarded for contributions to qualified State programs. Expected to generate about $60 million annually. Half is new money; the other half represents credit for State programs.

Coverage: Soybean producers.

Refund Policy: Not permitted.

Referendum Provisions: Delayed, to be conducted between 18 and 36 months after program implementation. Approval would require simple majority of those voting.

STATEMENT OF KENTUCKY FARM BUREAU FEDERATION
FOR THE RECORD AT THE HEARING BEFORE
THE SUBCOMMITTEE ON WHEAT, SOYBEANS AND FEEDGRAINS REGARDING H.R. 2209
THE SOYBEAN PROMTION RESEARCH AND CONSUMER INFORMATION ACT OF 1989
June 8, 1989

The Kentucky Farm Bureau is a general farm organization with a voluntary membership exceeding 289,082 families. Farm Bureau is organized in all of our state's 120 counties and our membership represents a vast majority of the soybean producers in Kentucky.

Farm Bureau recognizes the right of producers to promote increased research, sales and consumption of the commodities they produce and supports the concept of a national check-off program for soybeans. However, we are concerned with how such a program would be implemented as provided for in H.R. 2209.

Farm Bureau supports national commodity promotional programs which contain reasonable, yet workable, safeguards for producers. These safeguards should provide:

(1) Approval by producer referendum prior to implementation of a program;

(2) Referendum procedures which protect voting rights, provide uniform voting procedures and encourage maximum participation by producers;

(3) Producer control over the program. There should be opportunity for refunds of assessments without undue difficulty. For programs that do not allow a refund, a periodic referendum to determine continuation or termination of the program should be held at intervals not to exceed five years. In addition, a referendum should be required at any time upon petition of at least 10 percent of the registered producers in any area covered by the program;

(4) Producer control of the board administering the program; and

(5) Limitations on the use of funds for promotion, market development and research only. Grower educational programs should be limited to project information and financial statements.

We recommend that the Secretary of Agriculture provide an annual report and strengthen oversight activities as to the use of nationally legislated commodity check-off program funds to assure producers that the funds are being used only for their intended purposes of promotion, research and market development and not diverted, directly or indirectly, to help finance state or national organizations whose major purpose is to provide legislative and regulatory services for members.

In addition, imported commodities should be subject to promotional check-offs on the same basis as domestic producers.

After a thorough review of H.R. 2209 and discussions with officials of Kentucky's Soybean Association Fund Utilization Committee, several areas of the legislation cause concern. The following is Farm Bureau's position regarding specific issues involved with H.R. 2209 on a point by point basis.

1. Recall Provisions - The proposed legislation provides that it would be necessary for 30% of the soybean farmers to petition the Secretary of Agriculture before a referendum to reaffirm the check-off would be required. This would require approximately 135,000 signatures nationally. Other national check-off programs usually allow recall upon petition of 10% of the affected producers as provided for in Farm Bureau policy.

2. Mandatory Reconfirmation Votes - H.R. 2209 has no provision for mandatory reconfirmation votes. Farmers should be given an opportunity at least once every five years to express their views regarding continuation of such mandatory programs.

3. Upfront Referendum and Refunds - Language should be added to H.R. 2209 requiring approval of a producer referendum prior to implementation of the program. If the referendum is delayed it should be held within two years after initiation of the program and during this time refunds should be available to the producers as soon as possible rather than being held in an escrow account.

4. Nomination of United Soybean Board of Directors - Steps should be taken to ensure that all soybean farmers who contribute to the check-off fund are eligible to serve on the boards and committees which administer the program.

Under no circumstances should a farmer's opportunity to serve or provide input be limited to only those that hold a membership in any one particular organization. Coordination is important and there is no need for duplication of efforts; however, all farmer controlled groups, associations and organizations having soybean farmers among their membership ranks should have the opportunity to be certified by the Secretary of Agriculture for the purpose of making nominations, as is the case with many other national commodity check-off boards.

5. Influencing Government Decisions - It is clearly the intent of H.R. 2209 to advance the research, sales and promotion for soybeans; however, steps should be taken to assure that no check-off funds are used for the purpose of influencing government decisions at the state or federal level.

6. Check-off Rate - Kentucky Farm Bureau recommends that check-offs be a percentate of gross sales as provided for in H.R. 2209. A one-fourth of one percent of value of soybeans, however, would be a more acceptable assessment than the proposed rate of one-half of one percent rate.

7. Annual Audits - H.R. 2209 requires audits but leaves specifics to the marketing order. Language should be added to ensure annual audits. Farm Bureau supports increased research and promotion of soybeans and believes the points we have raised with regard to H.R. 2209 are necessary to ensure credibility of a national soybean check-off program and, furthemore, guarantees that farmers' dollars will be protected and used only for their intended purposes.

Thank you for the opportunity to express our views.

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